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Major Legislation of the Congress

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Summary Issue

96th Congress

LC 14.18:

IN THIS ISSUE

BUDGET AND GOVERNMENT SPENDING

House and Senate agree to conference report on reconciliation.

See BUDGET: THE FY81 FEDERAL BUDGET

CIVIL RIGHTS AND LIBERTIES

Senate defeats 1980 amendments to the Fair Housing Act.

See FAIR HOUSING ACT: PROPOSED AMENDMENTS

DEFENSE AND NATIONAL SECURITY

The Defense appropriations bill is passed by the Congress.

See DEFENSE BUDGET—FY81 and FIGHTER AIRCRAFT PROGRAMS

ENERGY AND FUELS

The Gasohol Competition Act (P.L. 96-493) was enacted into law in December 1980.

See RENEWABLE AND UNCONVENTIONAL ENERGY SOURCES:
GASOHOL, SOLAR, SYNFUELS, AND WIND

FOREIGN POLICY AND ASSISTANCE PROGRAMS

The International Security and Development Cooperation Act sets forth provisions on military aid, and outlines presidential reporting procedures.

See ARMS SALES: U.S. POLICY REFORM AND REORGANIZATION

HEALTH

Services to the mentally ill were expanded with passage of the Mental Health Systems Act, P.L. 96-398. Title VI of this law authorizes the Department of Health and Human Services to make grants to assist in meeting the cost of counseling rape victims.

See MENTAL HEALTH SYSTEMS ACT

NATURAL RESOURCES

Passage of an Alaska lands bill (P.L. 96-487) increased the National Park System by 140% nationwide, enlarged the Wildlife Refuge System by more than 175%, and expanded the Nation's Wilderness Preservation System by more than 260%.

See ALASKA NATIONAL INTEREST LAND (D-2) LEGISLATION

The Cover Photograph is an aerial view of the U.S. Capitol, Washington, D.C., and was taken from the collections of the Library of Congress, Prints and Photographics Division.

Major Legislation of the Congress

Summary Issue
96th Congress

December 1980

The *MLC (Major Legislation of the Congress)* is designed to provide congressional Washington and district offices with summaries of topical issues and major legislation introduced in response to those issues. This edition, covering the period January 1979 to December 1980, summarizes the major legislation considered by the 96th Congress.

The text is divided by subject. Title (key word) and legislative indices are provided at the end of the publication. Immediately following these indices is a chart of the appropriation bills passed by the 96th Congress. Detailed summaries of legislation may be obtained in the *CRS Digest of General Bills and Resolutions, 96th Congress.* Any *MLC* topic discussed at more length in a specific CRS *issue brief* carries the number of the appropriate issue brief at the end of the *MLC* entry (after the author's name).

The next issue of the *MLC* will be published in the spring 1981 after the 97th Congress has introduced its initial major legislative topics.

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Major Legislation of the 96th Congress

AGRICULTURE AND FOOD

MLC-001

AGRICULTURE AND THE 96TH CONGRESS: OVERVIEW

...income dropped by as much as 25%...

OVERVIEW

Inflation, which plagued the country as a whole throughout 1980, had a particularly serious impact on the agricultural sector. While 1979 had been characterized by record production and record demand, 1980 was marked by high production costs, particularly for energy and fertilizer, and by a prolonged drought which decimated livestock and crops across a wide swath of the country. As a result, net farm income dropped by as much as 25% from the previous year. The 96th Congress responded to these adverse economic conditions with a number of legislative initiatives to bolster farm income by increasing price supports, loan rates, or target prices.

President Carter's decision in January to embargo grain bound for the Soviet Union, in retaliation for that country's invasion of Afghanistan, also prompted a flurry of bills designed to mitigate the impacts on producers of the loss of a major market. Federal monetary policy to tighten the supply of credit had an adverse effect on farmers since it was announced at the beginning of the spring planting season. This adverse impact resulted in the passage of legislation to increase the amount of Federal funds available for operating loans.

In addition to grappling with these problems, the 96th Congress dealt with a number of other issues in the area of agricultural trade, crop insurance, food aid and food security, and futures trading on commodity markets.

Agriculture also emerged as a potentially significant contributor to domestic energy supplies. The development of indigenous sources of energy became a major priority because of unstable conditions in the Middle East and the escalating price of conventional fuels. The 96th Congress adopted several measures to spur production of alcohol fuels from agricultural crops, including a synfuels bill that contained over $1.2 billion for the development of fuels from all forms of biomass, including crops, timber, and urban waste.

COMMODITY PRICE SUPPORT PROGRAMS

Rising costs of production, particularly for energy, equipment, and fertilizer, seriously lowered farm earnings. While gross receipts from farming were slightly higher than their 1979 level, higher costs resulted in net income below both 1978 and 1979 levels. The economic situation in the farm belt was exacerbated by President Carter's decisions to embargo grain headed for the Soviet Union and to impose credit controls at the start of the spring planting season.

The 96th Congress responded to the plight of agriculture with a number of commodity program measures. During the first session, both Houses approved legislation to modify the loan and payment program for the extra-long staple (ELS) cotton (H.R. 5523 and S. 1978). The legislation was signed into law on Dec. 31, 1979 (P.L. 96-176). Price supports for milk were also extended during the first session by H.R. 4167, which was signed into law on Nov. 28, 1979 (P.L. 96-127). The legislation provides for milk price supports at 80% of parity through Sept. 30, 1981.

Following President Carter's decision to embargo grain destined for the Soviet Union, a number of bills were introduced in both Houses in the second session to alleviate the impact of the decision on the agricultural community. The embargo spurred final action on target price legislation that had been pending for some time. Legislation (H.R. 3398) was adopted to provide a 7% increase in the target price level for wheat and feedgrains for 1980, with an additional adjustment at the discretion of the Secretary of Agriculture in 1981, to cover further increases in production costs. This measure was enacted on Mar. 4 and was signed into law (P.L. 96-213) on Mar. 18, 1980.

Many feedgrain and wheat producers were not eligible for 1979 crop loan and reserve program benefits because they had not complied with set-aside requirements. Speedy action was given, therefore, to S. 2427, which authorized the Secretary of Agriculture to make price support loans to producers who failed to comply with program requirements in 1979. This legislation, enacted as P.L. 96-234 on Apr. 11, 1980, also authorized the sale of Commodity Credit Corporation stocks of corn for use in making alcohol for motor fuel and increased the loan ceiling for the farm storage facility loan program.

Although a number of other measures to support farm prices were the subject of discussion in either House, further action on some of them was made unnecessary by Mr. Carter's decision, in late July, to increase price supports for wheat and feedgrains and to raise the loan rate for soybeans. Additional action was taken, however, on Senate amendments to the Walnut and Olive Marketing program bill to increase price supports for grain placed in a farmer-held reserve, to authorize a food security reserve, and to move up the dates for the announcement of set-aside requirements for wheat and feedgrains.

President Carter's actions were apparently insufficient to stem the rising anti-embargo sentiment in Congress, particularly among Members from farm belt States. A number of measures to rescind the embargo were introduced, although none was enacted. An attempt was made to amend an appropriations bill to delete funding for implementation of the embargo, but this effort failed to win majority approval.

AGRICULTURAL CREDIT

The tightening monetary policy of the Federal Government in early 1980 reduced the amount of loan funds available to farmers for operation and expansion. Even when farmers were able to obtain financing, the interest rate was higher than many could afford in a year of relatively low commodity prices. To help alleviate the credit crunch in the farm sector, the 96th Congress enacted legislation (S. 2269) to extend for 2 years the Economic Emergency Loan Program of the Farmers Home Administration. The measure added $2 billion in loan authority to a program that had already reached its lending limit of $4 billion. President Carter signed the legislation into law on Mar. 30, 1980 (P.L. 96-220).

Another credit measure approved was a proposal to expand the lending authority of the Farm Credit System. The legislation, developed by the Farm Credit System itself, allowed Federal Land Banks to make larger loans when backed by a guarantee from the FmHA, broadened the authority of Production Credit Associations to finance processing and marketing businesses of farmers, and authorized Banks for Cooperatives to finance commodity export transactions and expand the eligibility limits for rural electric and telephone cooperatives. It received final action at the end of the 96th Congress. For further information see Issue Brief 80033 -- Agricultural Credit: Expanding Lending Authority of the Farm Credit System.

AGRICULTURAL TRADE

The 96th Congress took several significant actions to strengthen the position of U.S. agriculture in the world market. The Trade Agreements Act of 1979, for example, which became P.L. 96-39 on July 26, 1979, implemented changes made at the Tokyo Round of Multilateral Negotiations where a wide range of major agreements were signed by the participating countries. The Carter Administration, using authority granted by the Trade Act of 1974, agreed to reduce U.S. tariffs and other border restrictions in return for similar concessions from other countries. For further discussion of these trade negotiations, see Archived Issue Brief 79072 -- Agriculture: MTN Benefits and Concessions.

Both Houses also adopted legislation to revise the formula under which imports of beef and veal are permitted into the United States. The Meat Import Act of 1979, P.L. 96-177, provided for a countercyclical formula for meat imports, permitting them to increase when domestic supplies are low and prices relatively high and to decrease when domestic supplies are plentiful and prices relatively lower. For further information see Archived Issue Brief 78061 -- Meat Imports.

The United States became a fully participating member of the International Sugar Agreement (ISA) on Apr. 22, 1980, when the President signed H.R. 6029, authorizing the implementation of the ISA (P.L. 96-236). The ISA is designed to stabilize world sugar prices between 11 and 21 cents per pound by establishing a system of export quotas and stockpiles among the 50 sugar exporting and importing member nations. The Senate ratified the ISA on Nov. 30, 1979. The implementing legislation authorized related executive support activities, including the right to refuse entry to sugar imported under provisions of the agreement unless accompanied by a certificate that a required fee has been paid either by the importer or exporter (the fees are to be used to support a central fund to help offset the costs of stockpiling sugar); criminal penalties for fraudulent activities; and withdrawal from the agreement, among other actions, if there is evidence that participating nations are manipulating world sugar prices. Ratification of the agreement had been tied up in a dispute over creation of a domestic sugar price support program, which was ultimately defeated by the House in October 1979. Under existing authority, the Department of Agriculture supported the domestic price of sugar by offering a loan program at 13 cents per pound and a market price objective of 15.8 cents per pound. U.S. and world prices were above these levels in much of 1980.

CROP INSURANCE

Spurred by dissatisfaction from farmers and program administrators during heavy crop losses in 1976 and 1977, and by expiration of the Disaster Payments Program, the 96th Congress took action to revise the Federal Crop Insurance. A subsidized all-risk insurance program, designed to cover all crops, was adopted to replace disaster aid programs. The measure (S. 1125) was signed into law on Sept. 26, 1980 (P.L. 96-365) For further information see Issue Brief 78076 -- Agriculture: Proposed Revisions in Federal Disaster Assistance.

FOOD AID AND FOOD SECURITY

In response to concern that reduced food supplies and increased prices would result in a decrease in the commodities available for the concessional and donation programs under the Food for Peace program, a number of bills were introduced to establish a wheat reserve to be used for this purpose. Under section 401(a) of P.L. 480, commodities could be denied for the program if U.S. supplies were below that needed to meet domestic requirements, carryover, and anticipated commercial exports, unless the Secretary of Agriculture determined that some part of the supply should be used to carry out the urgent humanitarian purposes of the program. The reserve program proposed by the legislation would be used to maintain the Food for Peace program and only when supplies are in such short supply that they would normally be denied. Additionally, 300,000 metric tons of wheat could be used at the discretion of the President for humanitarian relief, in response to emergencies, at any time. This food security reserve was proposed in H.R. 3765, which was signed into law on Dec. 3, 1980 (P.L. 96-494).

A new international Food Aid Convention was agreed to in early 1980. This sets a minimum annual aid level by donor countries of 7.6 million tons of wheat and other cereals. Of this, the United States is committed to provide a minimum of 4.47 million tons. The Senate ratified this treaty, Ex. G 96-2, during the summer.

FUTURES TRADING

The Commodity Futures Trading Commission (CFTC), authorized in 1974 by legislation reported from the Agriculture Committee of each House, has had a rocky history since its inception. The latest crisis to besiege the agency stemmed, in general, from the phenomenal growth in the last 5 years of futures trading in nonagricultural commodities such as financial instruments and precious metals, and, in particular, from the late March collapse of the market for trading in silver. The collapse called into question, once again, the agency's capability of overseeing futures trading and resulted in a series of hearings by five congressional committees as well as the introduction of legislation to modify the CFTC's powers over nonagricultural futures contracts. In addition, both Houses gave final approval to a Senate amendment to H.R. 6285, the Egg Research and Consumer Information Amendments of 1980, which required the CFTC to establish a joint working group with several other Federal agencies to analyze and report to Congress on selected aspects of the silver market collapse. The report is required by Oct. 1, 1980. H.R. 6285 as amended was signed into P.L. 96-276 on June 17, 1980.

LEGISLATION

COMMODITY PRICE LEGISLATION

P.L. 96-127, H.R. 4167
Amends the Agriculture Act of 1949 to extend from Mar. 31, 1979, through Sept. 30, 1981, the support price of milk at not less than 80% of parity. Reported as a clean bill from the House Committee on Agriculture June 15, 1979 (H.Rept. 96-278). Passed House Nov. 8, 1979. Passed Senate Nov. 15, 1979. Signed into law Nov. 28, 1979.

P.L. 96-176, H.R. 5522
Amends the Agricultural Act of 1949 to change specified levels of price support loans and target price payments for the 1980 crop and each subsequent crop of extra-long staple cotton. Introduced Oct. 10, 1979; referred to Committee on Agriculture. Reported, amended, Dec. 5, 1979 (H.Rept. 96-688). Passed House Dec. 17, 1979. Passed Senate without amendment Dec. 19, 1979. Signed into law Dec. 31, 1979.

P.L. 96-213, H.R. 3398
Agricultural Adjustment Act of 1980. Amends the Agricultural Act of 1949 to increase the established price for corn and wheat by 7% and to extend the disaster payment programs to cover the 1980 crops of wheat, feedgrains, upland cotton, and rice. Introduced Apr. 3, 1979; referred to Committee on Agriculture. Reported, amended, May 30, 1979 (H.Rept. 96-228, Part I). Sequentially referred to Committee on Appropriations. Reported June 21, 1979 (H.Rept. 96-228, Part II). Passed House Nov. 8, 1979. Reported from Senate, with amendment, Dec. 4, 1979 (S.Rept. 96-446) Passed Senate, amended, Dec. 20, 1979. Conference report filed in the House Feb. 28, 1980 (H.Rept. 96-789). House and Senate agreed to conference report by voice vote Mar. 4, 1980. President Carter signed the measure into law Mar. 18, 1980.

P.L. 96-234, S. 2427
Amends the Agricultural Act of 1949 to permit the Secretary of Agriculture to make price support loans on the 1979 crops to any producer who did not comply with set-aside requirements of the 1979 feedgrain and wheat programs. Reported from Committee on Agriculture, Nutrition and Forestry as an original measure Mar. 17, 198o (S.Rept. 96-633). Passed Senate, amended, Mar. 26, 1980. Passed House Apr. 1, 1980. Signed into law Apr. 11, 1980.

P.L. 96-494, H.R. 3765
Walnut and Olive Marketing Orders (The Agricultural Act of 1980). As originally introduced, this relatively noncontroversial legislation made modifications in marketing order programs for walnuts and olives. It was used as a vehicle to enact a much more comprehensive measure, the Agricultural Trade Suspension Adjustment Act of 1980, which contained provisions increasing price supports and loan rates for the major agricultural commodities and authorizing the Secretary of Agriculture to take a number of other actions to reduce the impact on the farm sector of the suspension of grain to the Soviet Union. The bill also authorized the Secretary to administer a recourse loan program for small-scale fuel alcohol processors to buy and store grain for use in making alcohol and required the Secretary to analyze the U.S. agricultural export potential over the next 5 years and report his findings to the 97th Congres. The House bill was introduced on Apr. 26, 1979. It was reported from the House Agricultural Committee on Sept. 3, 1980 (H.Rept. 96-1276) and passed under suspension of the rules Sept. 15, 1980. In the Senate, the measure was amended to include the provisions of the Agricultural Trade Suspension Adjustment Act as a separate title and, as amended, was adopted by voice vote on Oct. 1, 1980. The House agreed to the Senate amendments on Nov. 17, 1980, and forwarded the bill to President Carter. Mr. Carter signed the legislation into law on Dec. 3, 1980.

AGRICULTURAL CREDIT

P.L. 96-220, S. 2269
Amends the Agricultural Credit Adjustment Act of 1978 to make a number of changes in Farmers Home Administration loan programs. Raises from $4 billion to $6 billion the limit on the total principal balance outstanding at any time on economic emergency loans insured or guaranteed under the Act. Introduced Feb. 6, 1980; referred to Committee on Agriculture, Nutrition and Forestry. Reported, amended, Feb. 25, 1980 (S.Rept. 96-591). Passed Senate, amended, Mar. 4, 1980. Passed House, amended, Mar. 5, 1980. Senate agreed to conference report Mar. 26, 1980. House approved conference report Mar. 27, 1980. President Carter signed the measure into law Mar. 30, 1980.

S. 1465 (Talmadge et al.)/H.R. 7548 (Jones, E., et al.)
The Farm Credit Act Amendments. Developed by and submitted to the Congress at the request of the Farm Credit System to revise the Farm Credit Act of 1971. Expands the lending authority of the System. The Senate bill was introduced July 9, 1979. The original House bill, H.R. 4782, was introduced July 13, 1979, but a new superseding measure, H.R. 7548, was introduced on June 11, 1980. The Agriculture Subcommittees on Credit in both Senate and House held hearings. The Senate bill, amended, was reported, as amended, on June 26, 1980 (S.Rept. 96-837) and was passed by voice vote on July 24, 1980. The revised House bill ordered reported to House floor on Aug. 26, 1980 (H.Rept. 96-1287). The measure was adopted, as amended, by voice vote on Nov. 19, 1980. The Senate adopted the House amendments on Dec. 13, 1980, and the measure was sent to the President for his approval.

AGRICULTURAL TRADE LEGISLATION

P.L. 96-39, H.R. 4537
Trade Agreements Act of 1979. Approves specified trade agreements and the statements of administrative action proposed to implement such agreements. Introduced June 19, 1979; referred to Committee on Ways and Means. Reported July 3, 1979 (H.Rept. 96-317). Passed House July 11, 1979. Reported from Senate Committee on Finance July 17, 1979 (S.Rept. 96-249). Passed Senate July 23, 1979. Signed into law July 26, 1979.

P.L. 96-177, H.R. 2727
Amends the Meat Import Act of 1964 to provide for a countercyclical formula for determining the amount of meat that may be entered or withdrawn from warehouses for consumption in the customs territory of the United States. Introduced Mar. 8, 1979; referred to Committee on Ways and Means. Reported June 6, 1979 (H.Rept. 96-238). Passed House Nov. 14, 1979. Reported from Senate Committee on Finance Dec. 7, 1979 (S.Rept. 96-465). Passed Senate Dec. 18, 1979. Signed into law Dec. 31, 1979.

P.L. 96-236, H.R. 6029
Authorizes the regulation of sugar imports by the President to implement the International Sugar Agreement. Introduced Dec. 4, 1979; referred to Committee on Ways and Means. Reported Dec. 20, 1979 (H.Rept. 96-725). Passed House Mar. 11, 1980; referred to Senate Committee on Finance. Reported Mar. 26, 1980 (S.Rept. 96-244). Passed Senate Apr. 2, 1980. Signed into law Apr. 22, 1980.

FUTURES TRADING

P.L. 96-276, H.R. 6285
This legislation, which amended the Egg Research and Consumer Information Act to raise the number of members on the Egg Board, also included a provision to amend the Commodity Exchange Act to direct the Commodity Futures Trading Commission to establish a joint working group with the Federal Reserve Board, Department of Treasury, and Securities and Exchange Commission to analyze and report on aspects of the events on the silver cash and futures market during the period September 1979 through March 1980. The original bill was introduced Jan. 24, 1980; referred to Committee on Agriculture. Reported, amended, Feb. 13, 1980 (H.Rept. 96-752). Passed House, amended, Feb. 19, 1980. Reported from Senate Committee on Agriculture, Nutrition and Forestry May 15, 1980 (S.Rept. 96-765). Passed Senate, amended, June 4, 1980. House agreed to Senate amendments and measure was forwarded to President Carter. The measure was signed into law June 17, 1980.

FOOD AID AND FOOD SECURITY

P.L. 96-494, H.R. 3765
Walnut and Olive Marketing Orders (Agricultural Act of 1980). Title III of this measure, the Food Security Wheat Reserve Act of 1980, directs the President to establish and maintain a reserve stock of wheat to be used for: (1) emergency food assistance to developing countries when domestic supplied are limited; and (2) urgent humanitarian relief to any

country suffering a major disaster in circumstances of unanticipated and exceptional need. The measure also permits the replenishment of the food security reserve through purchases which will not unduly disrupt the market and by designation of stocks of wheat otherwise acquired by the Commodity Credit Corporation. A synopsis of the other provisions of this legislation and the major actions taken by the 96th Congress on it can be found under the Commodity Price Legislation Section.

CROP INSURANCE

P.L. 96-365, S. 1125/H.R. 4119

Amends the Federal Crop Insurance Act with regard to the Board and stock of the Federal Crop Insurance Corporation, exclusive Federal court jurisdiction of lawsuits, the use of private insurance companies, coverages and premiums, reinsurance, emergency borrowing authority, and related matters. Amends the Food and Agriculture Act of 1977 to extend current disaster payment programs to the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice. Introduced May 14, 1979; referred to Committee on Agriculture, Nutrition and Forestry. Reported with amendment (S.Rept. 96-254) July 20, 1979. Passed Senate, amended, Sept. 10, 1979. House bill introduced May 16, 1979; referred to Committee on Agriculture. Reported with amendment Sept. 13, 1979 (H.Rept. 96-430). S. 1125 passed in lieu Feb. 13, 1980. Conference with the Senate agreed to Apr. 1, 1980; conferees reached agreement and agreed to file report on June 17, 1980. Conference report filed in House Aug. 28, 1980 (H.Rept. 96-1272). Senate agreed to conference report by voice vote on Sept. 8, 1980; the House agreed to it by a recorded vote, 235-150, on Sept. 17, 1980. The measure was signed into law on Sept 26, 1980.

Withnell, Elizabeth

BUDGET AND GOVERNMENT SPENDING

MLC-002

BALANCED BUDGET AND SPENDING LIMITATIONS: PROPOSED CONSTITUTIONAL AMENDMENTS

...30 states seek constitutional convention...

Nationwide attention on the role of the Government in the economy led to the introduction of numerous proposals requiring a balanced budget or limiting Federal spending in the 96th Congress.

Thus far, 30 State legislatures have applied to Congress for a constitutional convention to propose an amendment relating to Federal spending -- four short of the 34 States necessary for such a convention to be called. Over 100 bills and joint resolutions, specifically to limit Government spending, were introduced in the 96th Congress.

The approaches in Congress to this issue include: (1) requiring that the budget be balanced, or deficit spending be prohibited, except in certain emergencies; (2) limiting Federal expenditures, or increases in such expenditures, to no more than a specified percentage of national income or Gross National Product (GNP); (3) limiting the taxing authority of the Federal Government; (4) amending the existing congressional budget process to require consideration of budget balancing alternatives; and (5) redefining the Federal budget to provide for separate capital and operating budgets.

Some proponents seek to enact these proposals by statute. Others seek to amend the Constitution to accomplish their goals.

Balancing the Budget and Limiting Deficit Spending -- Many of the bills and joint resolution introduced in the 96th Congress either required the Federal budget to be balanced or prohibited the total of all appropriations for a fiscal year from exceeding the total of estimated revenues for that year. Most of these resolutions provided for emergency deficit spending if approved by the Congress by votes of two-thirds to three-quarters of the membership of both Houses.

A number of the resolutions contained provisions relating to the current national debt, including requirements that the debt be repaid within 20 to 100 years, again with exceptions for national emergencies.

Several proposals required an automatic surtax for any year the budget is in deficit.

Another group of proposals sought to balance the budget by limiting expenditures rather than appropriations. These measures would have forbidden expenditures or outlays to exceed Federal receipts in any fiscal year. Almost all the applications of the States for a constitutional convention proposed the types of amendments described in this section.

On Dec. 19, 1979, the Senate Judiciary Subcommittee on the Constitution approved S.J.Res. 126, a constitutional amendment requiring a balanced budget unless three-fifths of the Members of the House and the Senate vote otherwise. The amendment also limited each year's Federal revenues to the same percentage of national income as in the preceding year unless a higher percentage is approved. On Mar. 18, 1980, the Senate Committee on the Judiciary voted not to report the measure to the Senate floor.

Limiting Federal Expenditures -- Among the proposals to limit total Federal outlays but not necessarily require a balanced budget are those which would: (1) limit the total outlays to a certain percentage of GNP, often 18%; (2) restrict outlays to no more than one-third of national income; (3) and limit each year's increase in outlays to the growth in GNP, minus an adjustment for inflation (the Milton Friedman proposal).

The Friedman proposal (National Tax Limitation Committee) has been widely reported in the media. This proposed consititutional amendment would limit each year's rise in total outlays to the increase in GNP during the preceding calendar year, but the allowable increase would be reduced by one-fourth of the rate of inflation above 3%. The proposal was introduced in the 96th Congress as S.J.Res. 56.

Limiting Federal Taxing Authority -- Since the adoption of the Sixteenth Amendment, efforts to limit the taxing powers of the Federal Government have often come to national attention. From 1939 to 1960, various State legislatures have tried to call a constitutional convention limiting the maximum tax rate to 25% of income. Among the tax limitation proposals are those to limit Federal taxes to 15% of GNP, and to lower individual income tax rates by a certain percent annually for three consecutive years.

Congressional Budget Process -- Proposals have been introduced to make the balanced budget option a part of the congressional budget process. Under such a proposal, if the Budget Committees recommend a budget with a deficit, another proposal must be submitted showing necessary cuts to bring the budget into balance.

In approving the first debt limit ceiling bill of 1979, the Senate adopted amendments requiring the Budget Committees to present optional cuts to balance the budget in FY81 and requiring the President to submit alternate budget proposals for FY81-FY82 that would be in balance. Deficit spending could be authorized by a majority vote of Congress. An effort in the House to prevent future increases in the debt limit unless there was a balanced budget for FY81, or if two-thirds of the Congress agreed to a deficit, failed by a vote of 201 to 199. The debt ceiling bill (P.L. 96-5) was approved on Apr. 2, 1979, with the Senate amendments.

Redefining the Budget -- Some proposals would redefine the budget of the United States. The question of what items ought to be included in the budget is by no means settled. Before 1967, the budget excluded the receipts and expenditures of trust funds such as the Social Security system. Now, some $12 billion in outlays of the Federal Government are made by what is known as "off budget" agencies such as the Federal Financing Bank, the Postal Service Fund, and the United States Railway Association.

It has been argued that two budgets should exist -- a capital budget (to include expenditures such as purchases of land, construction of buildings, etc.) and another covering the operational and program expenses of the Government. Most State governments operate in this fashion.

The 96th Congress went on record for a balanced budget by FY81. In 1979 an amendment was successfully added to an International Monetary Fund bill that states, "Beginning with the fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts." However, the prospective impact of this provision on future budgets is uncertain.

LEGISLATION

P.L. 96-5, H.R. 2534

Amends Second Liberty Bond Act to increase the temporary public debt limit. Directs the Budget Committees to report balanced budgets for FY81 and FY82 along with economic impact statements. Requires the President, if he recommends a budget which would result in a deficit in either FY81 or FY82, to submit an alternative budget which is in balance. Alternative budgets shall include a clear and understandable explanation of specific differences between the budget and alternative budget proposals. Signed into law Apr. 2, 1979.

S.J.Res. 56 (Heinz et al.)

Constitutional amendment. Limits the increase of total budget outlays of the U.S. Government during any fiscal year to a percentage equal to the percentage increases in the GNP during the previous calendar year. Stipulates that if the inflation rate exceeds 3% annually, the increase in total outlays shall be reduced by one-fourth the fifference between the inflation rate and 3%. Allows the limit on total outlays to be changed by a three-fourths vote of both Houses of Congress, or to meet an emergency declared by the President. Introduced Apr. 5, 1979; referred to Committee on the Judiciary.

S.J.Res. 126 (DeConcini et al.)

Constitutional amendment. Requires a three-fifths rollcall vote of each House of Congress in order to adopt either a Federal budget which is not balanced or an annual increase in the proportion of Federal receipts to the national income. Prevents any appropriation bill from becoming law if it would cause an unbalanced Federal budget in any fiscal year. Introduced Dec. 14, 1979; referred to Committee on the Judiciary; approved by Subcommittee on the Constitution Dec. 19, 1979. Committee on the Judiciary failed to approve for reporting Mar. 18, 1980.

Schick, Allen; Dixon, Michael J.
IB79027

MLC-003

BUDGET: THE FY80 FEDERAL BUDGET

...inflation and recession affect budget...

Initially President Carter presented his Administration's fiscal year 1980 budget on Jan. 22, 1979. The budget, which was described by the President as lean and austere, proposed outlays of $531.6 billion, receipts of $502.6 billion, and a resulting deficit of $29.0 billion. These proposals reflected President Carter's concern with easing inflationary pressures, maintaining a strong national defense, and providing for continued moderate economic growth. The budget proposed a deceleration in the growth of federal spending, with reductions in real spending for many of the functional categories.

In March, 1979, the Administration revised the FY80 budget estimates, predicting slightly higher receipts and outlays with a smaller deficit. The March revisions proposed outlays of $532.3 billion, with receipts of $503.9 billion, and a deficit of $28.4 billion.

On May 24, 1979, Congress completed action on H.Con.Res. 107, the First Concurrent Resolution on the Budget for FY80. This resolution set targets of $532.0 billion for outlays, $509.0 billion for receipts, with a resulting deficit of $23.0 billion.

A CBO report, The Economic Outlook for 1979-1980: An Update, published in early July, forecast outlays of $540 billion and receipts of $519 billion, with a deficit of $21 billion for FY80. This forecast was based on a continuation of current policy.

The midyear report of the President, released on July 12, also included revised estimates of outlays, receipts, and the deficit for FY80 from the earlier estimates of January and March. The July estimates placed FY80 outlays at $542.4 billion, receipts at $513.8 billion, with a deficit of $28.7 billion.

Continuing inflation and the threat of recession resulted in a Second Concurrent Budget Resolution with both outlay and receipts higher than the first resolution. When passed during the last week in Nov. 1979, almost two months after its scheduled deadline, *S.Con.Res. 53* established limits of $547.6 billion on outlays, $517.8 on receipts with a deficit of $29.8 billion.

The FY81 budget of President Carter, released on Jan. 28, 1980, indicated an increase in the budget totals for FY80 above those set in the Second Concurrent Budget Resolution (S.Con.Res. 53) of Nov. 1979. The higher estimated budget totals were recommended to deal with the increased concern over continued inflation and a weakening economy and the appearance of a deteriorating international situation (specifically Iran and the Russian invasion of Afghanistan).

The Mar. 31, 1980 budget revisions of the President were made in consultation with the House and Senate Budget Committees. The changes were made in response to rapidly rising inflation and indications of a faltering economy. The recommended March revisions included a $5.3 billion increase in outlays, an $8.6 billion increase in receipts, and a $3.3 billion decrease in the deficit for FY80. (These were changes from the estimates for FY80 budget released in Jan. of 1980.)

As part of the First Concurrent Budget Resolution of FY81 (H.Con. Res. 307) (passed by Congress on June 12, 1980) Congress passed a revised Second Budget Resolution for FY80. This resolution set outlays at $572.7 billion, receipts at $525.7 billion, with a deficit of $47 billion. Because the economy performed poorer than forecast and the rate of inflation increased more rapidly than anticipated, these totals were larger than the limits established in Nov. 1979 by the Second Concurrent Budget Resolution.

Reflecting continuing changes in economic conditions, the July 1980 mid-year budget and economic reviews of OMB and CBO estimated higher outlays ($578.8 billion), lower receipts ($517.9 billion), and a larger deficit ($60.9 billion) than established less than two months earlier by the revised Second Budget Resolution (H.Con.Res. 307, 6/12/80). Final budget totals will be determined by economic and policy changes that occur during the last three months of FY80.

The actual budget figures for FY80 were released on Oct. 29, 1980. Outlays came to $579.0 billion, receipts were 520.0 billion and the deficit was $59.0 billion. These figures were larger than originally proposed (in Jan. 1979) in the FY80 budget, but not too different from more recent estimates. Much of the difference between the original proposals and the actual outcome is attributable to economic conditions that varied from those originally forecast, especially the severity, timing and speed of the recent recession and the strength and persistence of inflation.

LEGISLATION

H.Con.Res. 107
First Concurrent Resolution on the Budget for FY80. Action completed May 24, 1979.

H.Con.Res. 186
Second concurrent resolution. Failed to pass the House on Sept. 19, 1979 (192-213).

H.Con.Res. 307
First concurrent budget resolution for FY81. Contained revisions fo the FY80 second concurrent budget resolution. Action completed on June 12, 1980.

S.Con.Res. 22
Original Senate version of First Concurrent Resolution on the Budget for FY80. Text of S.Con.Res. 22 inserted in H.Con.Res. 107 by the Senate on May 15, 1979.

S.Con.Res. 36
Second concurrent budget resolution. Passed the Senate Sept. 19, 1979 (62 to 36). Passed the House on Sept. 27, amended (212 to 206). First conference on this failed on Oct. 22 after beginning on Oct. 9. Another conference split the issue of reconciliation from the budget totals but still ended in disagreement over reconciliation.

S.Con.Res. 53
The revised Second Concurrent Budget Resolution eliminating the reconciliation provision rejected by the House but agreed to by the Senate. Passed the Senate on Nov. 16, 1979 (57 to 20). It passed the House on Nov. 28 (206 to 186), which completes Congressional action on the FY80 budget for 1979.

S.Con.Res. 119
Senate Budget Committee recommendation for the second concurrent budget resolution. Released on Aug. 27, 1980.

Winters, Philip
IB79016

MLC-004

BUDGET: THE FY81 FEDERAL BUDGET

...increases reflect economic and international uncertainty...

Initially President Carter presented his FY81 budget to Congress on Jan. 28, 1980. The budget at that time called for $696.1 billion in budget authority; $615.8 billion in outlays; $600.0 billion in receipts; and a deficit of $15.8 billion. That budget request reflected President Carter's desire to combat inflation by restraining budgetary growth, to meet the rise of international tensions through growth in national defense programs, and to reduce the deficit mostly by allowing tax receipts to rise.

The economic outlook as first presented in the budget was not optimistic. A mild recession was expected in the first half of calendar year 1980, followed by a sluggish recovery through the second half of 1980 and throughout 1981. The President indicated a willingness to adjust the budget to conform to economic conditions through tax cuts and public works programs if the recession became worse than expected, or by allowing the deficit to shrink to dampen inflationary tendencies if the recession did not occur as expected.

A large scale review of both the FY80 budget and the month-old FY81 budget proposals got underway in late February. The review was initiated after the CPI rose to an alarming 18.2% annual rate in January. The Carter Administration made the review, in consultation with Congress, in an effort to reduce Federal outlays as one method to lower inflationary pressures on the economy.

The President's revised budget, released on Mar. 31, raised the FY80 estimates for receipts by $8.6 billion (to $532.4 billion), outlays by $5.3 billion (to $568.9 billion), and lowered the deficit by $3.3 billion (to $36.5 billion). The revised budget changed the estimates for FY81, raising receipts by $28 billion (to $628.0 billion), lowering outlays by $4.3 billion, and changing a $15.8 billion deficit into a $16.5 billion surplus. The higher estimated receipts are partially the result of the $12.6 billion from the imposed energy import fee.

The economic forecast was also changed, predicting a smaller decline in economic activity during 1980 but slower growth in 1981. The inflation rate is expected to be higher in both 1980 and 1981 and unemployment is expected to be slightly lower in both 1980 and 1981.

The House and Senate Budget Committees released their First Concurrent Budget Resolution reports on Mar. 26 (H.Rept. 96-856) and Apr. 3 (S.Rept. 96-654) respectively. The House Committee recommended receipts of $613.8 billion, outlays of $611.8 billion, with a surplus of $2.0 billion for FY81. The Senate Committee recommended receipts of $612.9 billion, outlays of $612.9 billion, and an exactly balanced budget. Neither the House or Senate Committee recommendations included the $12.6 billion in expected revenues from the energy import fee.

Both the House and Senate passed their own versions of the First Concurrent Budget Resolution (H.Con.Res. 307) on May 7 and May 12 respectively. The differing resolutions, both containing reconciliation instructions and credit budgets, were sent to a conference committee. The conference committee ended deliberations on May 21 and recommended receipts of $613.8 billion, outlays of $613.3 billion, and a surplus of $0.5 billion, the first recommended balanced budget since FY69. The totals did not include revenues from President Carter's controversial oil import fee. On May 29 the House rejected the conferee's recommendations, sending the resolution back to conference.

The First Concurrent Budget Resolution (H.Con.Res. 307) was finally passed by Congress on June 12, 1980. It was a month late and was not greatly different than the version rejected by the House on May 29. The resolution called for outlays of $613.6 billion, receipts of $613.8 billion, and a surplus of $0.2 billion.

The First Budget Resolution for FY81 (H.Con.Res. 307) also invoked for the first time, the Congressional Budget Act's process of reconciliation. Both the Senate (on June 30, 1980; S. 2885) and the House (on Sept. 4, 1980; H.R. 7765) passed reconciliation bills lowering FY81 outlays by approximately $6.0 billion and raising revenues by approximately $4.2 billion.

The Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) July budget reviews again changed the budget estimates for FY81. The continued worsening of the economy and the forecast of a very slow economic recovery during 1981 resulted in higher outlay estimates, lower revenue estimates, and a greatly increased deficit estimate for FY81. OMB estimated outlays at $633.8 billion, revenues at $604.0 billion, and a deficit of $29.8 billion. CBO's budget estimates were essentially the same.

The re-estimates were necessary because of the automatic responses of the Federal budget to economic contractions. As unemployment rises, Federal outlays grow in response to increased demands on Federal relief programs. At the same time Federal receipts decline as incomes of individuals and businesses fall. The result, without any new programs or policies, is an increase in the size of the deficit (or a shrinking in the size of a surplus).

Action on the Second Concurrent Budget Resolution was slow. The Senate Budget Committee reported out their version of the resolution (S. Con.Res. 119) on Sept. 3, 1980; the House Budget Committtee was still holding hearings on their version of the resolution. This slowness meant that Congress did not meet the Sept. 15 deadline for passage of the second budget as set forth in the Congressional Budget Act. It became necessary to complete action on the Second Resolution after the November election.

In rapid succession after the Nov. 4 election, the House completed action on their version of the Second Budget Resolution, (H.Con.Res 448, Nov. 18, 1980), the Senate completed action on their version (S.Con.Res. 119, Nov. 19, 1980), a conference met and agreed on a compromise (H.Con.Res. 448, Nov. 19, 1980), and the House and Senate agreed to the conference report (Nov. 20, 1980). The final product set outlays at $632.4 billion, revenues at $605.0 billion, and the deficit at $27.4 billion. Included in these totals are a planned net tax reduction of $10.1 billion and between a 1% and 2% reduction in estimated outlays. Questions have been raised whether these budget totals can hold through the rest of FY81 given the unsettled state of the economy and the beginnings of a new administration and Congress.

On Dec. 3, 1980, both the House and Senate adopted the conference report (H.Rept. 96-1479) on reconciliation (H.R. 7765). This bill requires savings of $5 billion and increases revenues $3 billion for FY81. The total amount, $8 billion is somewhat lower than either the House ($9.2 billion) or Senate ($10.8 billion) version as originally proposed in the First Concurrent Budget Resolution.

LEGISLATION

H.Con.Res. 307
First Concurrent Budget Resolution. Passed the House on May 7, 1980. (225-193). Agreed to by the conference on May 21. Rejected by the House on May 29 (202-120). New Conference agreement on June 11. Accepted by the House (205-195) and the Senate (61-26) on June 12.

S.Con.Res. 86
First Concurrent Budget Resolution. Passed the Senate May 12, 1980 (68-28). Passed H.Con.Res. 307 in lieu of S.Con.Res. 86; amended to contain Senate language.

S.Con.Res. 119
Second Concurrent Budget Resolution.

S. 2885 (Hollings)
Reconciliation Act of 1980. The legislation necessary to carry out the reconciliation instructions contained in the first Budget Resolution. It passed the Senate on June 30 by a vote of 89 to 0.

H.R. 7765 (Giaimo)
The House version of the reconciliation legislation (see S. 2885). It passed the House on Sept. 3 by a vote of 294 to 91. Became the bill of conference and was adopted by Congress on Dec. 3, 1980.

Winters, Philip
IB80023

BUSINESS TRENDS AND CONSUMER AFFAIRS

MLC-005

ANTITRUST LAW: RIGHT OF INDIRECT PURCHASERS TO SUE FOR INJURIES

...recovering damages for illegal overcharges...

The U.S. Supreme Court, in *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720(1977), held that if an individual or corporation violates the antitrust laws and sells a product at a higher price as the result of so doing, damages may be recovered only by persons who purchased the product directly from the violator. For example, if a manufacturer engages in price fixing and charges a retailer an illegally inflated price for merchandise, and the retailer includes the overcharge in the amount he charges consumers, then only the retailer -- not the consumers -- may sue the manufacturer for damages. Similarly, a State attorney general suing as *parens patriae* on behalf of consumers under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 will also probably be precluded from recovering damages for illegal overcharges, unless the consumers the State represents purchased directly from the antitrust law violator.

In *Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.*, 392 U.S. 481 (1968), a direct purchaser sued a manufacturer for price fixing and the manufacturer argued in defense that the direct purchaser had not been injured because the purchaser passed on the illegal overcharges to customers. The Supreme Court rejected this defensive use of the "pass-on" theory and held that direct purchasers could sue for antitrust damages despite having passed on the higher costs. In *Illinois Brick*, the Court reasoned that to be consistent with *Hanover Shoe*, in which the Court had rejected the defensive use of pass-on, the Court had to also reject the offensive use of the theory. In other words, if a direct purchaser could recover despite having passed on damages, an indirect purchaser should not be permitted to recover damages resulting from the pass-on.

Legislation was introduced in the 95th and 96th Congresses to overturn the effects of *Illinois Brick* by permitting suits under the antitrust laws for injuries, whether direct or indirect. Support for overturning *Illinois Brick* was expressed by the Department of Justice, the Federal Trade Commission, and the National Association of Attorneys General.

During the 95th Congress, the Senate Judiciary Committee reported S. 1874 and the House Judiciary Committee reported H.R. 11942. These bills, as reported, would have overruled both *Illinois Brick* and *Hanover Shoe.* The measures would have permitted both offensive and defensive use of pass-on, reversing the current state of the law so that only parties that could prove actual injury -- usually indirect purchasers -- could recover. However, No bill to overrule *Illinois Brick, Hanover Shoe,* or *Pfizer* was enacted by the 95th Congress.

In the 96th Congress, on Jan. 31, 1979, Senator Kennedy introduced S. 300, the Antitrust Enforcement Act of 1979. This bill would have allowed direct and indirect purchasers to recover damages, but would have permitted the pass-on defense to the extent necessary to avoid duplicative recovery. Thus, the bill would have overruled *Illinois Brick* and would have partially overruled *Hanover Shoe.* (The overruling of *Hanover Shoe* would have been partial in that, if a direct purchaser passed on inflated prices and the court found that the indirect purchasers who were injured were unlikely to sue, then there would be no danger of duplicative recovery and the pass-on defense would not be permitted).

S. 300 also would have allowed indirect sellers who had been underpayed to sue and would have permitted the pass-on defense against direct sellers when necessary to avoid duplicative liability. These provisions contemplated type of situation in which large supermarkets, for example, agree to underpay middlemen who, in turn, underpay farmers.

S. 300 would have permitted proof of injury and amount of damage on a classwide basis, "without requiring proof of such matters by each individual member." Total damages, however, would have been no more than the sum of the percentages of total damages attributable to individual class members, except in *parens patriae* actions, in which recovery of damages suffered by all consumers is permitted by 15 U.S.C. 15(d).

Section 3 of the bill permitted the Judicial Panel of Multidistrict Litigation to consolidate for both pretrial and trial any antitrust action, instead of just *parens patriae* actions as currently provided by 28 U.S.C. 1407(h).

H.R. 2204, introduced by Representative McClory on Feb. 15, 1979, would have overruled both *Illinois Brick* and *Hanover Shoe.* H.R. 2060, introduced by Representative Rodino on Feb. 8, 1979, was identical to S. 300. However, legislation to overturn *Illinois Brick* or *Hanover Shoe* did not receive final action in the 96th Congress.

LEGISLATION

S. 300 (Kennedy)/H.R. 2060 (Rodino)

Amends the Clayton Act to allow both direct and indirect purchasers and sellers to recover damages, but permits the pass-on defense to the extent necessary to avoid duplicative recovery. H.R. 2060 introduced Feb. 8, 1979; referred to Committee on the Judiciary. Subcommittee on Monopolies and Commercial Law held hearings Feb. 27, Mar. 7. Clean bill forwarded to full Committee by Subcommittee in lieu, Sept. 18, 1979. S. 300 introduced Jan. 31, 1979; referred to Committee on the Judiciary. On July 10, 1979, the Senate Judiciary Committee reported S. 300 with major revisions, including allowing the pass-on defense in all cases and limiting foreign governments to single damages in actions brought under section 4 of the Clayton Act.

Cohen, Henry
MB78203

MLC-006

ANTITRUST LAWS: PROCEDURAL REFORM

...S. 390 becomes law...

The National Commission for the Review of Antitrust Laws and Procedures (NCRALP) was appointed by the President in 1977 to study and recommend the ways in which Federal antitrust laws could be made more effective and more easily enforceable. Many of the recommendations of the Commission are embodied in S. 390 (P.L. 96-349), the "Antitrust Procedural Improvements Act of 1980" (effective Sept. 15, 1980). Several House bills -- H.R. 4046, H.R. 4048, H.R. 4049, H.R. 4050, and H.R. 5949 -- each of which corresponded to a provision of S. 390, were consolidated as the House version of S. 390. The measure amends the antitrust laws to facilitate the prosecution of antitrust cases by (1) authorizing Department of Justice (a) access to certain products of discovery obtained in any judicial litigation or administrative litigation "of an adversarial nature" (H.R. 4050), and (b) employment of independent contractors for the purpose of organizing (indexing, etc.) documents received by the Department in response to Civil Investigative Demands (originally H.R. 3271, revised as H.R. 5949); (2) permitting the use of collateral estoppel with respect to certain antitrust judgments entered in favor of the Government (H.R. 4046) (findings made by the Federal Trade Commission under either the antitrust laws or Section 5 of the Federal Trade Commission Act are specifically excepted); (3) making provision for the award of pre-judgment interest on the untrebled damage award to a successful private antitrust plaintiff (H.R. 4048); (4) giving the courts increased authority to fine attorneys for dilatory litigation practices (H.R.

4047); and (5) expanding the scope of Clayton Act antimerger jurisdiction to include noncorporate business entities ("persons") "in or affecting commerce."

LEGISLATION

P.L. 96-349, S. 390

Expedites and reduces the cost of antitrust litigation. Implements some of the recommendations of the National Commission for the Review of Antitrust Laws and Procedures. Amends section 7 of the Clayton Act to include within the prohibition of certain merger activity all business entities, and expands jurisdictional scope of section 7 to corporations "in or affecting commerce." Introduced Feb. 8, 1979; referred to Committee on the Judiciary. Subcommittee hearings held Feb. 20 and 26, 1979. Approved by full Committee May 15, 1979. Passed Senate July 20, 1979. Passed House June 12, 1980 (House version consolidated provisions of H.R. 4046, H.R. 4048, H.R. 4049, H.R. 4050, and H.R. 5949, as passed by House). Conference report agreed to by Senate Aug. 18, 1980, and by House Aug. 28, 1980. Signed into law (P.L. 96-349) Sept. 15, 1980.

Rubin, Janice
IB79028

MLC-007

THE CHRYSLER BAILOUT

...Congress approves Chrysler's bill...

In early 1979, the Chrysler Corporation, the tenth largest corporation in the United States, sought U.S. Government financial assistance in the form of either tax credits or loan guarantees. This call for Federal assistance was the result of a number of financial setbacks and operating losses suffered by the auto firm over the past decade. Internal management, operating decisions, losses to domestic and foreign competitors, and the added costs of regulatory requirements have all been cited as causes for the company's current financial plight.

In mid 1979, Chrysler appealed to the Federal Government for assistance in the form of tax credits amounting to almost $1 billion. After initial rejections, the Carter Administration supported a plan to grant the ailing company Federal loan guarantees of $1.5 billion subject to a series of conditions including one requiring the company to raise additional $1.5 billion in loans from private sources without a Federal guarantee.

The ensuing controversy centered on whether a large corporate enterprise, operating in a free market environment, should be bailed out by the Federal Government rather than follow other routes more in keeping with the free enterprise system; e.g., some form of bankruptcy, closure, private takeover, etc. Arguments in favor of Government assistance relied essentially on projected negative impacts of a Chrysler failure on the labor force, on related industries, and on the economy generally.

On Dec. 21, 1979, after conference committee consideration, Congress passed a $3.5 billion aid package for Chrysler Corporation. The bill represented a compromise between the Senate and House versions of the legislation. The compromise essentially split the differences in the two bills.

The major difference between the Senate and House bills was determining how much in wage increases Chrysler employees should be required to forego for Federal aid approval. The final Senate bill had demanded that Chrysler workers give up $525 million in pay raises, the House measure $400 million. The Senate bill originally had mandated a wage freeze.

In conference committee, the conferees agreed that Chrysler's 105,000 unionized workers were to make a $462.5 million wage concession over the next 3 years as a condition for Chrysler receiving the Federal loan guarantees.

The final Chrysler bill provided for $1.5 billion in Federal loan guarantees to the auto maker, provided that the company meets the stipulation of the loan guarantee. The other $2 billion had to be raised from banks, suppliers, dealers, and workers.

In 1980, Chrysler Corporation received $800 million in loan guarantees and it has been reported that the firm will seek another $200 million to $350 million in early 1981.

LEGISLATION

P.L. 96-185, H.R. 5860

Chrysler Corporation Loan Guarantee Act of 1979. Authorizes loan guarantees to the Chrysler Corporation. Introduced Nov. 9, 1979; referred to Committee on Banking, Finance and Urban Affairs. The conference report is filed in House H.Rept. 96-730. The House agreed to the conference report 241-124. The Senate agreed to the conference report 43-34. President Carter signed the bill into law on Jan. 7, 1980.

Bass, Gwenell

MLC-008

FEDERAL TRADE COMMISSION AUTHORIZATION ACT

...agency's powers trimmed...

The longest running, most significant consumer battle of the 96th Congress ended during the third week of May 1980 when the House and Senate approved a compromise Federal Trade Commission authorization bill. And, while any final assessment of this attempt to curb the powers of an independent regulatory agency will have to wait, notice has now been given to the Federal Trade Commission (FTC), as well as other regulators, that the Congress can and will act when it perceives that "unelected bureaucrats" have been overzealous.

The House accepted the conference report (H.R. 2313 -- H.Rept. 96-917) on May 20, 1980 by a vote of 272 to 127, while the Senate accepted the report on May 21 by a 74 to 15 vote. Although the final compromise limited a number of the commission's activities, it did not include several of the far more restrictive provisions of the earlier House and Senate bills. However, it does include a provision that would permit the two chambers to veto any of the agency's rules or regulations without the approval of the President.

President Carter, who played a key role in obtaining the compromise agreement from the conferees, signed the legislation on May 28, 1980, despite his basic opposition to the legislative veto concept.

Final provisions of the compromise include the following:

Authorizes $70 million for FTC activities in FY80; $75 million for FY81; and, $80 million for FY82.

Authorizes a two-chamber veto of commission regulations that would not require the President's signature before going into effect;

Permits the FTC's rulemaking proceeding on television advertising aimed at children ("kidvid") to continue, but the agency will have to consider whether the advertising is deceptive, not merely unfair. Unfairness as a standard for determining improper advertising is to be suspended for 3 years. Should the commission choose to continue with the proceeding, it will have to be halted temporarily until the text of the proposed rule is published. The FTC will be allowed to use the record established to date in determining a final rule if the proceeding is reinstated.

Allows the agency to issue rule governing the disclosure of funeral home industry prices and services, banning deceptive or coercive practices and prohibiting boycotts or threats. State laws that are as tough as the FTC regulations would not be pre-empted under the Magnuson-Moss Act (P.L. 93-637);

Prohibits the FTC from regulating trade groups that set product and other industry standards; (However, the conference report did not take any position on whether the FTC has authority to issue rules under any other legislative authority);

Permits the FTC to conduct a study of the insurance industry only at the request of either the Senate or House commerce committees. The study may take place only during the session of Congress in which it is requested and is limited to general review and analysis of issues.

Permits the commission to regulate agricultural cooperatives to a somewhat greater degree than allowed under the 1922 Capper-Volstead Act, which gives farmer cooperative a measure of antitrust immunity. The result is to allow the FTC case against Sunkist Growers Inc. to continue.

Prohibits the FTC from petitioning the patents commissioner to cancel a trademark on the grounds that it has become the common descriptive name of an item. This would stop the agency's action against the Formica Corp. The prohibition would be in effect until Sept. 30, 1982.

Places a ceiling of $50,000 on the amount any person may receive for participating in a rulemaking proceeding in one year or $75,000 total for participating in the entire proceeding. The total amount authorized for the public participation program is $750,000 per year. In addition, a minimum of 25% of the funds must be set aside for small businesses.

Requires the FTC to provide an analysis for each proposed and final rule stating the need for the rule, the costs and benefits and alternatives considered;

Provides for 30 days advance notice of proposed rulemaking to the Senate and House Commerce Committees;

Provides that the Senate Commerce Consumer Subcommittee hold oversight hearings on the FTC every 6 months.

LEGISLATION

P.L. 96-252, H.R. 2313

Amends the Federal Trade Commission Act and authorizes appropriations for the FTC for FY80 and FY81. Subjects FTC regulatory actions to a congressional veto and bans some activities outright. Introduced Feb. 21, 1979; referred to Committee on Interstate and Foreign Commerce and Subcommittee on Consumer Protection and Finance. Passed House (amended) on Nov. 27, 1979. Passed Senate (amended) Feb. 7, 1980. Sent to conference Mar. 13, 1980. House agreed to conference report (H.Rept. 96-917) May 20, 1980. Senate agreed to report May 21. Measure signed into law (P.L. 96-252) May 28, 1980.

S. 1991 (Cannon)

Amends the Federal Trade Commission Act and authorizes appropriations for the FTC for FY80 and FY81. Limits a number of FTC powers and investigations but does not include a congressional veto provision. Introduced Nov. 8, 1979; referred to Committee on Commerce, Science and Transportation. On Feb. 7, 1980 the measure was incorportated in H.R. 2313 as an amendment.

Mulock, Bruce K.

MLC-009

PRODUCTS LIABILITY: A LEGAL OVERVIEW

...business insurance cooperatives...

Products liability refers to the liability of a manufacturer or seller for injury caused by his product to the person or property of a buyer or third party. Judicial and legislative developments in recent years, particularly the growth of strict tort liability, have made it substantially easier for persons injured by defective products to recover damages. Advocates for consumers and plaintiffs view these developments as necessary to ensure adequate compensation for injured workers and consumers and to furnish an incentive for the manufacture of safe products. Manufacturers, on the other hand, contend that the amounts that must be paid for recoveries and for products liability insurance premiums have reached the crisis level.

Under the doctrine of strict liability, to recover damages a plaintiff need prove only that the defendant sold a defective product and that the defectiveness was the proximate cause of the plaintiff's injuries. Due care on the part of the defendant is immaterial. Manufacturing interests have offered a number of suggestions to make recovery of damages by injured consumers more difficult; among them have been the following:

(1) Enact a statute of limitations that begins on the date the product is sold, instead of on the date of injury. A statute of limitations that begins on the date of injury allows a manufacturer to be sued many years after placing a product on the market. (Of course a plaintiff still must prove that the defect that caused his injury existed at the time of sale.) A statute of limitations that begins on the date of sale, however, may run out before an injury even occurs and leave the injured party without a remedy.

(2) Allow compliance with industry or Government safety standards to be a defense for manufacturers in products liability suits. If this were done, a person injured by a defective product that met the safety standard might be left without a remedy. It may be argued that such standards do not necessarily reflect the highest state of the art and that allowing compliance to be a defense will remove an incentive to manufacture safer products.

(3) Permit the defense of contributory negligence, or in the alternative, comparative negligence, in products liability cases. The defense of contributory negligence permits a defendant to escape liability totally if the plaintiff in any degree negligently contributed to his own accident. Under the doctrine of comparative negligence, a plaintiff may recover despite his own negligence, but his recovery is diminished in the proportion by which he was responsible. Most States do not permit these defenses in strict liability actions. Most States do, however, allow the related defenses of assumption of risk and unforeseeable misuse in strict liability cases. The former permits the defendant to escape liability if the plaintiff used the product with actual knowledge of its defective condition. The latter permits the defendant to escape liability if the plaintiff misused the product in a manner unforeseeable to the defendant.

(4) Permit the state-of-the-art defense. This defense may arise in cases in which a plaintiff alleges that he was injured as a result of a product's having been unsafely designed, as opposed to defectively manufactured. It allows a manufacturer to escape liability if his product was designed in conformance with the state of the art at the time of manufacture, as opposed to at the time of injury. "State of the art," however, can have two very different meanings. "While some courts equate the meaning of the 'state of the art' with common industry customs, other courts have taken a broader view of the term and include within its purview the feasibility of effecting, within practical and technological limits, modifications in the product which would enhance its safety." Every State but Illinois allows the defense in the latter sense. Some manufacturers would like the defense permitted in the former sense so that they could be assured that if their products conformed to existing industry standards the products would not later be adjudged defectively designed. Existing industry custom, however, may lag behind technology. Allowing state of the art in this sense to be a defense could reduce manufacturers' incentives to design products more safely.

On July 20, 1978, the Carter Administration unveiled its program to deal with products liability problems. The proposals generally followed those suggested by the Department of Commerce in its Options Paper, except that a tax deduction for setting aside self-insurance funds was not among the recommendations. Instead, the Government adopted a recommendation by the Department of the Treasury to extend the carryback period for net operating losses attributable to product liability from 3 to 10 years. The Administration also directed that a model uniform product liability law be prepared to add stability to products liability law, which varies from State to State. The carryback provision was substantially enacted as section 371 of the Revenue Act of 1978 (P.L. 95-600).

On Aug. 16, 1979, the Department of Commerce announced the approval by the White House of a legislative proposal to allow business groups to create their own insurance cooperatives. Entitled the "Product Liability Risk Retention Act of 1979," the draft bill would have allowed groups of product sellers -- groups of 20 companies or more -- to pool all or a portion of their product liability and completed operations risk exposure in a federally approved cooperative. A version of the proposal passed the House as H.R. 6152; the Senate failed to act upon the proposal.

LEGISLATION

H.R. 5258 (LaFalce), H.R. 5571 (Preyer), H.R. 6152 (Preyer), S. 1789 (Culver)

Facilitates the ability of product sellers to establish product liability risk retention groups and to purchase product liability insurance on a group basis. H.R. 5258 introduced Sept. 12, 1979; referred to Committee on Interstate and Foreign Commerce. H.R. 5571 introduced Oct. 2, 1976; referred to Committee on Interstate and Foreign Commerce. Hearings on H.R. 5258 and H.R. 5571 held Oct. 26, Nov. 14, 15, 26, 27, 1979. H.R. 6152 introduced Dec. 14, 1979; referred to Committee on Interstate and Foreign Commerce; approved, with amendments, by Commerce Consumer Protection Subcommittee Jan. 31, 1980; reported Feb. 29, 1980 (H.Rept. 96-791); passed House Mar. 10, 1980; reported with amendment by Senate Committee on Commerce, Science, and Transportation Sept. 23, 1980 (S.Rept. 96-984). S. 1789 introduced Sept. 21, 1979; referred to Committee on Commerce, Science, and Transportation.

Cohen, Henry
IB77021

CIVIL RIGHTS AND LIBERTIES

MLC-010

ABORTION: JUDICIAL AND LEGISLATIVE CONTROL

...Court upholds Hyde Amendment...

In 1973 the U.S. Supreme Court held that the Constitution protects a woman's decision whether or not to terminate her pregnancy, *Roe* v. *Wade,* 410 U.S. 113, and that a State may not unduly burden the exercise of that fundamental right by regulations that prohibit or substantially limit access to the means of effectuating that decision, *Doe* v. *Bolton,* 410 U.S. 179. The Court's rulings immediately precipitated heated debate on the issue and a variety of governmental actions at the national, State, and local levels designed to either nullify the rulings or hinder their effectuation. Thus some State and local governments limited Medicaid reimbursement to "medically necessary" (therapeutic) abortions, and through regulations or policy determinations, effectively limited or prohibited the use of public hospital facilities for abortion procedures.

The congressional response has been at two levels: first, nullification or modification of the Supreme Court's decision through constitutional amendments and, second, passage of legislation that attempts to limit or eliminate Federal support of abortions or related programs.

Drastic reductions in free abortions for the poor have been ordered by the Federal Government and by 33 States since August 1977. Federally funded abortions were reduced from as many as 350,000 a year to fewer than 900 in the third quarter of 1978.

Basically, two types of proposed constitutional amendments have been introduced in Congress since 1973: the "State's rights" or State option type of amendment or the so-called "right to life" or "human life" proposal. The "State's rights" amendment would not alone reverse the core holding of the abortion rulings. Rather, adoption of a State option amendment would result in abortion standards that would vary from State to State. Some States might prohibit abortions entirely; others could have no restrictions whatsoever. In effect, such an amendment would restore to the States the same control over abortion rights that existed prior to *Roe.* Typical examples of such proposals are S.J.Res. 91, 94th Congress, 1st session, (1975); H.J.Res. 96, 94th Congress, 1st session (1975); and H.J.Res. 225, 95th Congress, 1st session (1977). No "State's rights" type amendment has been introduced in the 96th Congress.

The typical "right to life," or "human life" amendment would create a new right in the unborn (personhood) which the Supreme Court has declared is not guaranteed in the Constitution at present. The existing Fifth and Fourteenth Amendments prohibit only the Federal and State governments from depriving anyone of life without due process of law. Some provisions of proposed "right to life" amendments would extend the prohibition to include private individuals as well. Also, some proposals go beyond protecting the unborn and seek to prohibit "right to die" legislation. The proposed amendments utilize a variety of terms to define the time the right attaches: "conception," 'moment of fertilization," or "at any stage of biological development." Among amendments of this type introduced in the 94th Congress were S.J.Res. 6, S.J.Res. 10, H.J.Res. 41, H.J.Res. 99. Similar proposals introduced during the 95th and 96th Congresses include H.J.Res. 198 and H.J.Res. 245 (95th Cong., 1st sess.); H.J.Res. 214 and S.J.Res. 22 (96th Cong., 1st sess.).

After extensive hearings through the 94th Congress, the Senate Judiciary Subcommittee on Constitutional Rights did not recommend adoption of any of the proposed amendments pending before it. Subsequently, on Apr. 28, 1976, an attempt by Senator Helms to have S.J.Res. 178 considered by the full Senate was defeated. The Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee concluded hearings in April 1976 without making recommendations. No hearings have been held during either the 95th or 96th Congresses.

Since 1973 Congress has adopted several measures that directly relate to the abortion issue. The Health

Services Extension Act of 1977, P.L. 93-45, contained a conscience clause, a provision that prohibits complying institutions and individuals that receive Federal funds to perform or participate in abortion or sterilization procedures. The Foreign Assistance Act of 1973, P.L. 93-189, prohibited the use of funds to pay for the performance of abortions or to coerce any person to practice abortion. The Legal Services Corporation Act, P.L. 93-355, prohibits participation of attorneys in abortion litigation. Legislation was also passed prohibiting the use of Federal funds for fetal research, P.L. 93-96 and P.L. 93-348. The Special Revenue Sharing Act of 1975, P.L. 94-63, prohibits officers or employees of the United States from coercing recipients of Federal benefits to undergo either an abortion or sterilization. During the first session of the 96th Congress attempts were made to limit the use of student fees to pay for abortions at institutions of higher education and to limit abortions at emergency medical services at education facilities in remote locations.

Congress has attached abortion restrictions to appropriations bills, the first being the Foreign Assistance Act of 1973, P.L. 93-189. However, more recently the focus of attention has been on restricting the availability of abortions under the Medicaid program.

The first appropriations restriction on the availability of abortions under the Medicaid program was enacted as a rider to the FY77 Labor/HEW Appropriation Act, P.L. 94-439. Section 209 of the law provided that:

None of the funds contained in this Act shall be used to perform abortions except when the life of the mother would be endangered if the fetus were carried to term.

During the 1st session of the 95th Congress another restrictive provision was attached to the FY78 Labor/HEW Appropriations Act. This measure, P.L. 95-205, provided in part that:

None of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rate or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

This provision thus broadened the use of appropriated funds to include medical procedures for promptly reported cases of rape and incest, long lasting physical health damage to the mother, and other matters.

During the second session of the 95th Congress, both Houses approved identical language for the FY79 Labor/HEW appropriations, P.L. 95-480. In addition, the Department of Defense supplemental appropriations bill for FY79, P.L. 95-457, was amended to restrict the use of military appropriations for abortions. The restrictions in P.L. 95-457 apply to military personnel and their dependents. The language of the amendment was identical to that of the amendment in the FY79 Labor/HEW appropriations bill.

During the first session, the 96th Congress enacted a continuing resolution providing temporary appropriations to the Departments of Labor and Health, Education, and Welfare for FY80, after reaching agreement on a temporary abortion limitation. The resolution, P.L. 96-86, provided that:

Notwithstanding any other provision of this joint resolution except section 102, none of the Federal funds provided by this joint resolution for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service;

The continuing appropriations for FY80 were approved on Nov. 20, 1979, with the same abortion restriction. Also, an abortion restriction was attached to the District of Columbia appropriations. The House, on Dec. 11, 1979, passed an amendment to the Child Health Assurance Act of 1979 (H.R. 4962), which would restrict the use of Federal funds appropriated under the Act to exclude all abortions except those needed to preserve the life of the mother and would specify that nothing in Title XIX (Medicaid) of the Social Security Act shall require State funds to be used to pay for abortions.

On Jan. 15, 1980, a Federal district court in Brooklyn, N.Y., held unconstitutional on Fifth and First Amendment grounds the annual anti-abortion amendments to the Labor/HEW appropriations measures. *McRae* v. *Secretary, United States Department of Health, Education, and Welfare,* Civil Action No. 76 C 1804 (E.D.N.Y.), Jan. 15, 1980. Enforcement of the judge's order in *McRae* was stayed for 30 days and the Department of Justice announced its intent to appeal the decision directly to the Supreme Court.

On Feb. 19, 1980, the Supreme Court agreed to take the appeals in *Harris* v. *McCrae,* No. 79-1268; *Williams* v. *Zbaraz,* No. 79-4; *Miller* v. *Zbaraz,* No. 79-5; and *United States* v. *Zbaraz,* No. 79-491, and heard oral argument on Apr. 21, 1980. The Court also refused to stay the *McCrae* court's injunction, thus requiring DHEW to resume Federal funding of medically necessary abortions under the Medicaid program.

On June 30, 1980, the Court ruled that the Federal and State restrictions on the funding of medically necessary abortions were constitutionally valid, and that States participating in the Medicaid program need only pay for those medically necessary abortions for which the States received Federal reimbursement.

On Dec. 10, 1980, President Carter signed H.J.Res. 610 into law (P.L. 96-369). The resolution contained an amendment prohibiting the use of Federal funds to pay for the performance of abortions except for where the mother's life is endangered, or except for medical procedures necessary for the victims of rape or incest (when the crime is reported within 72 hours to a law enforcement agency or public health service). The amendment allowed payments for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The measure also provided that the States are free not to fund abortions to the extent they, in their sole discretion, deem appropriate.

A similar abortion restriction was included H.J.Res. 644, the continuing resolution for FY81. H.J.Res. 644 was approved by both Houses and signed by President Carter (P.L. 96-536) on Dec. 16, 1980, the day the 96th Congress adjourned. Funding under P.L. 96-536 will expire June 6, 1981.

LEGISLATION

P.L. 96-86, H.J.Res. 412

Continuing resolution providing funds for the Departments of Labor, and Health, Education, and Welfare, and related agencies for FY80. The resolution, which remained effective until Nov. 20, 1979, contained compromise language governing abortions. Passed House and Senate Oct. 12, 1979. Signed into law on same day.

P.L. 96-88, S. 210

Provides for the creation of a Department of Education. Contains abortion amendments which would limit the authority of the Secretary of Education to allow certain activities if abortion were performed except where the life of the mother would be endangered if the fetus were carried to term. H.R. 2444 introduced Feb. 27, 1979; referred to Committee on Government Operations. S. 210 introduced Jan. 24, 1979; referred to Committee on Governmental Affairs. H.R. 2444 laid on table in House July 11, 1979. S. 210 passed in lieu. Abortion restrictions dropped in conference. Signed into law Oct. 17, 1979.

P.L. 96-93, H.R. 4580

Makes appropriations for the District of Columbia for FY80. After lengthy negotiations between conferees, the Senate agreed, on Oct. 22, 1979, to compromise language governing the limitation of abortions. Provides as follows: None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for termination of an ectopic pregnancy. Signed into law Oct. 30, 1979.

P.L. 96-123, H.J.Res. 440

Continuing resolution providing funds for the Departments of Labor and Health, Education, and Welfare for FY80. Contains provision restricting the use of Federal funds for abortions, except to save the life of the mother, and for medical procedures necessary for victims of rape and incest, when such rape or incest has been reported promptly to a law enforcement or public health service agency. Passed House and Senate Nov. 20, 1979. Signed into law Nov. 20, 1979.

P.L. 96-536, H.J.Res. 644

Provides continuing appropriations for FY81. Contains compromise language governing abortions. Approved by Congress and signed by President Dec. 16, 1980.

H.R. 4962 (Waxman et al.)/S. 1204 (Ribicoff et al.)

Child Health Assurance Act of 1979. Amends Title XIX (Medicaid) of the Social Security Act to provide medical assistance to eligible individuals under the age of 21 and to eligible women during and after pregnancy. Establishes a national child health assurance program (CHAP) income standard and a national maternal income standard. H.R. 4962 passed House Dec. 11, 1979, with amendment offered by Representative Bauman that would amend Title XIX as follows: "None of the funds authorized to be appropriated under this title shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; *Provided, however,* that nothing in this title shall be construed to require any State funds to be used to pay for any abortion." H.R. 4962 and S. 1204 placed on Senate calendar Dec. 13, 1979. Failed to pass Senate.

Lewis, Karen; Rosenberg, Morton; Hall, James
IB74019

MLC-011

FAIR HOUSING ACT: PROPOSED AMENDMENTS

...measure defeated in Senate...

Title VIII of the Civil Rights Act of 1968 (P.L. 90-284), as amended by Section 808(b) of the Housing and Community Development Act of 1974 (P.L. 93-383), prohibits discrimination on account of race, color, religion, national origin, and sex in the sale and rental of all housing, except a single-family house sold by the owner without brokerage assistance or advertising, and except rooms or units in any house or apartment building occupied by no more than four families and if the owner lives in the building. Title VIII also prohibits discrimination by credit institutions in the granting of loans for buying or improving housing, and in multiple-listing services or in any real estate organization or service.

Title VIII is enforced by the Secretary of Housing and Urban Development (HUD); immediate responsibility is vested in an Assistant Secretary for Fair Housing and Equal Opportunity. HUD is authorized to enforce Title VIII by investigating complaints of discrimination and by attempting to elicit voluntary compliance through conciliation. If conciliation fails, the complainant may bring suit in a Federal district court (he or she must bring suit first in a State court if he or she is protected by a State or local fair housing law).

The Attorney General may bring a civil action in a Federal district court to seek elimination of any pattern or practice of discrimination, or in a case in which denial of fair housing rights to any group of persons involves an issue of general public importance.

Recent studies of the effectiveness of Title VIII have shown: (1) that, while the law has been of advantage primarily to the black middle class, residential desegregation is occurring both in suburban areas and in cities; (2) that there is continuing discrimination in the sale and rental of housing; and (3) that there is continuing discrimination in mortgage lending.

Some critics have argued that Title VIII has not been more effective in eliminating discrimination and in facilitating residential desegregation because HUD lacks necessary enforcement power. These critics have stated that authority to elicit voluntary compliance through conciliation is inadequate because HUD's conciliation efforts are not backed up by power to compel compliance. Lack of such power has been adduced to explain the low rate of successful conciliations. Moreover, the right of a complainant to bring a private suit allegedly is an inadequate means of ensuring fair housing rights; few private suits have been brought after unsuccessful conciliation efforts because such suits are time-consuming and expensive. It has been noted further that the Attorney General may bring pattern-or-practice suits, but cannot bring suit on behalf of an individual.

Bills introduced in the 96th Congress, S. 506 and H.R. 5200 (successor to H.R. 2540, 96th Congress), would have granted increased enforcement power to HUD and the Justice Department.

Under both bills, the Secretary of HUD, after investigating a complaint, would have made a determination as to whether reasonable cause exists to believe that discrimination has occurred. At that point, HUD would have had the choice of proceeding to an administrative hearing or of referring the case to the Attorney General, who could have filed suit in Federal district court. By the administrative route, the case would have been heard by an administrative law judge, who could have issued a cease-and-desist order providing appropriate relief and imposed a civil penalty of up to $10,000. Under H.R. 5200, the Secretary of HUD could not have modified such an administrative order and appeal from the order would have been to a Federal district court, which could have reviewed the administrative findings and considered new evidence. Under S. 506 as introduced, the Secretary could have modified an administrative order. Appeal from the order would have been to a Federal circuit court of appeals, which could only have determined whether the order was based on substantial evidence in the record.

Under both bills, the Secretary of HUD would not have had to wait to receive complaints, but could have initiated charges. This authority would have enabled HUD to attack instances of institutionalized or "systemic" discrimination affecting large numbers of people of a protected class.

As introduced, both bills eliminated the exemption for sale of a house by the owner without brokerage assistance or advertising. H.R. 5200 retained the exemption governing rental of units in a four-family, owner-occupied house if the unit is rented without brokerage assistance or advertising. S. 506 exempted only rental of a unit in a single-family house.

Both bills added the handicapped as a protected class under Title VIII. Both bills extended coverage of Title VIII to insurers and other persons in the business of real estate finance.

The estimated cost of implementation of H.R. 5200 was $8.1 million in FY81. The cost was expected to rise to $12.4 million in FY86.

Both bills were supported by the Carter Administration and by civil rights groups. In his 1980 State of the Union Message, President Carter said:

"Fair housing: I will continue to press for enactment of this important civil rights initiative; it will enable the Government to enforce our fair housing laws effectively and promptly. It is the most critical civil rights legislation before the Congress in years...."

Some persons in the real estate business opposed the increased enforcement power that would have been given to HUD under these bills. They said that combining the functions of investigating, prosecuting, and judging in the same Department would threaten respondents with denial of due process. They pointed out that if increased enforcement authority is necessary, judicial enforcement would be fairer than administrative enforcement. In addition, they warned that administrative law judges would have jurisdiction over cases involving allegedly discriminatory zoning by local governments, so that the Department of HUD would acquire authority to control land use.

Opponents of increased enforcement power for HUD took the position that voluntary compliance through conciliation is preferable to compulsory process and that HUD had failed to elicit voluntary compliance to the extent possible because of inadequate funding and staffing for fair housing, especially for its Office of Voluntary Compliance.

READEX FICHE

The House debated H.R. 5200 on June 11 and 12, 1980, and passed the bill on June 12 by a roll-call vote of 310 to 95. During debate, the House adopted the following amendments:

(1) An amendment that retained the exemption from coverage of the sale of a single-family house by the owner who does not use brokerage assistance or advertising and who does not own more than three single-family houses at the same time;

(2) An amendment that permitted real estate appraisers to base appraisals on any factors other than race, color, religion, national origin, sex or handicap;

(3) An amendment (a) that required the Secretary of HUD to certify that conciliation has been attempted before any fair housing case could be heard by an administrative law judge; (b) that required the Secretary of HUD to refer to the Attorney General any charge that land use controls violated fair housing; and (c) that provided that administrative law judges who were to hear fair housing cases should be appointed by the Attorney General and should be employed in the Department of Justice;

(4) An amendment that eliminated the authority granted in the bill to the Secretary of HUD to provide financial assistance to public and private agencies implementing programs to prevent or eliminate discrimination in housing (the Secretary would have retained authority under the 1968 Act to render technical assistance to such agencies);

(5) An amendment that eliminated a requirement in the bill that the Architectural and Transportation Barriers Compliance Board make a "Retrofitting Cost and Need Study" to determine the extent of housing barriers to the handicapped, to find out what is being done to modify housing for the handicapped, and to estimate the cost of remodeling existing housing to provide sufficient housing for the handicapped.

On Aug. 26, 1980, the Senate Judiciary Committee reported an amended version of S. 506 (S.Rept. 96-919). Following are major amendments to the bill as introduced:

(1) S. 506 did not eliminate either of the exemptions in the sale and rental of housing presently provided in Title VIII.

(2) The bill limited protection to persons who have made a "bona fide attempt" to enter into a real estate transaction or to obtain real estate financing. S. 506 thus denied protection to those who only test fair housing compliance. Furthermore, the bill prohibited HUD from using or assisting fair housing testers except when the Department had reason to believe that a violation of Title VIII has occurred.

(3) S. 506 permitted appraisers to base estimates of property value on "all factors relevant to the appraiser's estimate of the fair market value of the property," provided that such factors were not used to discriminate against persons of protected classes.

(4) The bill provided for the appointment of administrative law judges to hear fair housing cases by a Fair Housing Review Commission. The Commission was to be composed of three members appointed by the President by and with the advice and consent of the Senate. Members of the Commission were to serve for 6 years, and could have been removed by the President only for inefficiency, neglect of duty, or malfeasance in office. Independence of the Commission from HUD was intended to ensure impartiality on the part of administrative law judges and members of the Commission in hearing cases and issuing orders on the basis of such hearings.

(5) After the filing of a charge, the Secretary of HUD had to attempt to resolve the charge through conciliation. If both parties in a case agreed to binding arbitration, HUD was to refer the case to an arbitrator to be provided by the Community Relations Service in the Justice Department.

(6) The Secretary of HUD had to refer to the Attorney General any case involving zoning or any other land use law, or any "novel" issue of law or fact.

(7) An order of an administrative law judge could have been appealed to the Commission, and was to have been heard by an Appeals Panel (consisting of one Commission member and two administrative law judges) which could have approved, rejected, or modified the order, or remanded it to the administrative law judge for further proceedings.

(8) An order of the Appeals Panel could have been appealed to a Federal circuit court of appeals, which was to review the order as provided in the bill as introduced.

(9) S. 506 included authorization for a "Retrofitting Cost and Need Study" to be undertaken by the Architectural and Transportation Barriers Compliance Board to determine the extent of housing barriers to the handicapped, to find out what is being done to modify housing for the handicapped, and to estimate the cost of remodeling existing housing to provide sufficient housing for the handicapped.

Estimates showed that the cost of implementing S. 506 would have risen from $5 million in FY82 to $5.9 million in FY85. The cost estimated for H.R. 5200 as reported was much greater, largely because H.R. 5200 authorized HUD to fund public and private fair housing agencies. The House deleted this provision before final passage of H.R. 5200.

On Dec. 1, 1980, by a roll-call vote of 68-8, the Senate agreed to a motion to consider the House-passed bill, H.R. 5200, on the floor.

Debate on the bill focused primarily on two issues: means of enforcement of fair housing rights, and the standard of proof to be applied in fair housing cases.

With respect to means of enforcement, debate centered on a proposal requiring that fair housing cases be heard by district court magistrates. Under this proposal, a magistrate's decision could be appealed to the court for a jury trial *de novo.*

The following arguments were made in support of this enforcement procedure:

(1) Impartiality would be ensured if cases were decided in the judicial branch, since the executive branch investigates and prosecutes fair housing cases.

(2) Penalties provided in Title VIII are civil penalties, and the Sixth Amendment guarantees the right to trial by jury only in criminal cases. Nevertheless, fairness to defendants in fair housing cases, who may be subject to penalties of up to $10,000, would be ensured by jury trials.

The following arguments were made in opposition to enforcement through magistrates and the district courts:

(1) Enforcement through the courts is not necessary, since both S. 506 and H.R. 5200 provide for enforcement through administrative law judges who would be independent of the Department of HUD, which would investigate and prosecute.

(2) By appeal from a magistrate's decision to the districts court, the defendant would be granted a trial *de novo* by a jury; the jury trial would render the magistrate's hearing purposeless.

(3) Under Federal law, cases may be heard by a magistrate only with the consent of both parties; under the proposed amendment, the magistrate's hearing would be mandatory.

(4) Under Federal law, a case heard by a magistrate cannot be tried again *de novo* by a jury; this kind of retrial would be permitted under the proposed amendment.

With respect to the standard of proof to be applied in fair housing cases, debate centered on whether the criterion required for a finding of discrimination should be the intent or motive behind an action, or the effect or impact of the action.

The following arguments were made in support of the "intent" standard:

(1) The "effect" standard would allow a person to be found guilty of violating Title VIII even if he never intended to discriminate on the basis of race or of any other unlawful classification.

(2) In zoning or land use cases especially, the "effect" or "disparate impact" standard could open the way for the Federal Government to compel local governments to overcome "underrepresentation" of minority groups in neighborhoods.

The following arguments were made in support of the "effect" standard:

(1) Using Title VII (equal employment opportunity) of the Civil Rights Act of 1964, the courts have said that the proper standard of proof in Title VIII cases is effect or impact, not intent.

(2) The "intent" standard would restrict the courts in exercising judgment and equity in fair housing cases.

(3) The "intent" standard would weaken enforcement of fair housing.

On Dec. 9, 1980, the Senate voted on a cloture motion, which must be passed by a vote of three-fifths of the entire membership -- 60 Senators. The vote was 54 for cloture, 43 against. When the Senate did not agree to the motion, H.R. 5200 was returned to the calendar, precluding further action on the bill in the 96th Congress.

LEGISLATION

H.R. 5200 (Edwards of Calif. et al.)/S. 506 (Mathias et al.)
Amended Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) to revise the exemptions. Included the handicapped within the antidiscrimination provisions of the Act. Prohibited discrimination in housing insurance or debts secured by real property. Expanded the authority of the Secretary of Housing and Urban Development over certain Federal agencies. Revised the procedures for enforcing the antidiscrimination provisions of the Act. H.R. 5200 introduced Sept. 6, 1979; referred to Committee on the Judiciary; reported to House with amendment (H.Rept. 96-865) Apr. 1, 1980; passed House, with amendments, June 12, 1980; debated in Senate Dec. 1 to Dec. 9, 1980; returned to Senate calendar Dec. 9, 1980. S. 506 introduced Mar. 1, 1979; referred to Committee on the Judiciary; reported to the Senate with amendment (S.Rept. 96-919) Aug. 26, 1980.

Downing, Paul M.

MLC-012

FREE PRESS AND POLICE SEARCHES: THE STANFORD DAILY CASE

...reform measure signed into law (P.L. 96-440)...

In May 1978, the U.S. Supreme Court ruled in *Zurcher* v. *Stanford Daily* that an unannounced search for criminal evidence pursuant to an *ex parte* warrant of a student newspaper office is constitutional, even if no one on the newspaper staff is suspected of criminal activity. In so deciding, the Court held that neither the First nor the Fourth Amendment (free speech and press, unreasonable searches and seizures) proscribes third party searches of innocent persons, journalists or others, suspected of possessing criminal evidence. (The alternative to a search warrant is a subpoena, which provides an opportunity for an adversary hearing and orderly opposition before the subpoena is enforced.)

The *Zurcher* decision engendered immediate critical reaction from the public, the media, and the Congress. Well over a dozen remedial bills were introduced in both the 95th and the 96th Congresses to overturn all or part of this result. Some of these bills were directed only at press or media searches, while others would have reached all third pary searches. Most of the measures specified certain exceptions, such as where life was endangered or the evidence would likely be destroyed unless the search warrant was issued.

Congress faced some difficult questions in assessing these various proposals. One of the most basic involved the unavoidable tension that existed between ensuring efficient and expedituious law enforcement efforts while simultaneously guaranteeing individual freedom and privacy. Questions also existed with regard to the approaches Congress might take to overturn this result as it applies to State (as opposed to Federal) searches. Finally, the suggestion was made that new procedures might be implemented somewhere between search warrants and subpoenas, e.g., establishing some sort of adversary warrant procedure or making the subpoena-first requirement applicable only to nonsuspects, in order to deal with this situation.

P.L. 96-440, as signed into law on Oct. 13, 1980, limits Federal, State, and local government' ability to procure search warrants to obtain work products and other documentary materials in the possession of a person engaged in the dissemination of information to the public. The only exceptions provided (other than for classified materials relating to national security) are where there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought; there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; and, for non-work product materials only, where there is reason to believe that the giving of notice pursuant to a subpoena would result in the destruction, alternation, or concealment of the materials. Searches and seizures conducted to enforce U.S. customs laws are also exempted from coverage.

Persons aggrieved by violations of the Act are given a civil cause of action against both the Government unit and the individual violator(s). Such persons are entitled to receive actual damages but not less than liquidated damages of $1,000, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the corut in its discretion might award. Original jurisdiction of such actions is given to the U.S. district courts.

With reference to *ex parte* searches that involve non-First Amendment activities, the law states that the Attorney General is to issue guidelines, within six months following enactment, for procedures to be followed by Federal officers and employees involved in such searches. In drafting such guidelines, the Attorney General must incorporate four specified standards: (1) a recognition of the personal privacy interests of the person possessing the materials sought; (2) employment of the least intrusive means of obtaining the materials that do not substantially jeopardize the availability or usefulness of the materials sought; (3) a recognition of special concern for the privacy interests represented in a known, professional, confidential relationship, such as doctor/patient, attorney/client, or pastor/parishioner; and (4) a requirement that any application for a warrant to conduct such a search must be approved by an attorney for the Government, except that in emergency situations, where another appropriate U.S. Attorney is notified within 24 hous of the emergency.

LEGISLATION

P.L. 96-440, S. 1790

Privacy Protection Act of 1979. Limits Federal, State, and local governments' ability to procure search warrants to obtain work products and other documentary materials in the possession of a person engaged in the dissemination of information to the public. Excludes from the limitation classified materials relating to national security; instances where there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense for which the materials are sought; there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of or serious bodily injury to a human being; and, for non-work product materials only, where there is reason to believe that the giving of notice pursuant to a subpoena would result in the destruction, alteration, or concealment of the materials. Requires the Department of Justice to establish guidelines to govern Federal access to documentary evidence in the hands of all other nonsuspect third parties. Authorized persons aggrieved by violations of the Act to bring a civil suit in the appropriate U.S. District Court against the governmental unit and allows recovery of actual and punitive damages as well as reasonable attorney fees. Reported to the Senate July 28, 1980 (S.Rept. 96-874). Passed Senate Aug. 4, 1980. Passed House, amended, Sept. 22, 1980 [see H.R. 3486]; House requested conference Sept. 22, 1980. Senate agreed to conference Sept. 24, 1980. Conference report filed in House Sept. 26, 1980 (H.Rept. 96-1411). Conference report filed in Senate Sept. 29, 1980 (S.Rept. 96-1003). Senate agreed to conference report Sept. 29, 1980. House agreed to conference report October 1, 1980. Signed by President (P.L. 96-440) October 13, 1980.

H.R. 3486 (Kastenmeier)/S. 855 (Bayh)

First Amendment Privacy Protection Act of 1979. Limits governmental search and seizure of materials possessed by persons involved in First Amendment activities to such instances as, e.g., where there is probable cause to believe that the person possessing the materials is involved in a criminal offense or where there is reason to believe seizure of the materials is necessary to prevent death or serious bodily injury. Provides a civil cause of action, for victims of wrongful searches and seizures. H.R. 3486 introduced Apr. 5, 1979; referred to Committee on the Judiciary. Hearings held by Subcommittee on Courts, Civil Liberties and the Administration of Justice on Apr. 25, May 24, 25, 31, and June 1, 1979. Reported to House (H.Rept. 96-1064), with amendment, May 30, 1980. Passed by House Sept. 22, 1980; but action vacated and S. 1790 passed in lieu after all of its language except for the enacting clause was stricken from the bill and replaced by the provisions of H.R. 3486, as passed; H.R. 3486 was then laid on the table.

Reimer, Rita Ann
IB79029

MLC-013

INDIANS: LAND CLAIMS BY EASTERN TRIBES

...new settlements proposed...

Recent land claims asserted by Indians of the eastern United States have received national attention resulting in the introduction of legislation in Congress. These claims are against States, cities, and individual landholders, and are based solely on the allegation that the Federal Government did not give its approval to the transference of these lands by Indians to non-Indians, as allegedly required by a 1790 statute, the Indian Trade and Intercourse Act (as amended). At present, land claims by Indian tribes, bands, or groups have arisen in Maine, Massachusetts, Rhode Island, Connecticut, New York, South Carolina, Louisiana, Florida, and Virginia.

These claims are being settled in various ways. First, negotiated, out-of-court settlements (subject to approval by Congress) have been explored in Maine, New York, Massachusetts, South Carolina, and Virginia. Second, legislation has been introduced in Congress either to extinguish alleged aboriginal title claimed by certain Indians or to ratify certain settlement agreements. Finally, litigation remains possible should the first two avenues prove unsuccessful.

Precedent-setting legislation to settle the claims of the Narragansett Indians in Rhode Island was enacted by Congress on Sept. 30, 1978 (P.L. 95-395). (On May 4, 1979 the State of Rhode Island enacted legislation to effectuate relevant portions of the settlement.) This legislation implements, with certain modifications, a previously agreed upon settlement signed by representatives of the Narragansett Indians, the State of Rhode Island, the town of Charlestown, R.I. (where these land claims are located), and specified private landholders owning lands to which the Indians laid claims. Negotiations leading to the agreement were carried out in consultation with the Carter Administration.

In effect, P.L. 95-395 extinguished all land claims of the Narragansett Indians in exchange for approximately 1,800 acres of land -- approximately 900 acres to be donated by the State of Rhode Island and approximately 900 additional acres to be purchased for the Indians from specified landholders at Federal expense. (The effect of the Act was contingent upon establishment by Rhode Island of a State corporation to acquire, manage, and hold the lands for the Indians.) A settlement fund of $3.5 million was established in the U.S. Treasury for the purpose of implementing the Act.

On Oct. 10, 1980, President Carter signed into law P.L. 96-420, to settle the claims of the Passamaquoddy, Penobscot, and Maliseet Indians in Maine. This is by far the largest claim settled to date.

P.L. 96-420 contains provision of a previously negotiated settlement which:

-- Declare the purpose of ratifying the Maine Implementing Act (enacted by the State of Maine on Apr. 3, 1980). (A summary of the provisions of the Maine Implementing Act is contained in S.Rept. 96-957, at p. 35).

Retroactively ratify, in accord with State and Federal law, any prior transfer of Indian land in the State of Maine, and extinguish Indian aboriginal title to such land and all claims arising therefrom.

Direct the Secretary of the Treasury to establish in the D.S. Treasury a $27 million trust fund, one half of which would be held in trust for the benefit of the Passamaquoddy Tribe, the other half of which would be held in trust for the Penobscot Nation (to be known as the "Maine Indian Claims Settlement Fund.")

Direct the Secretary of the Treasury to establish an account in the U.S. Treasury to be known as the "Maine Indian Claims Land Acquisition Fund," into which would be transferred $54.5 million from the general funds of the U.S. Treasury.

Of this amount, $900,000 would be held in trust for the Houlton Band of Maliseet Indians.

$26.8 million would be held in trust for the Passamaquoddy Tribe.

$26.8 million would be held in trust for the Penobscot Nation.

The Secretary of the Interior would be authorized and directed to expend, at the request of the affected tribes, such funds for acquiring lands for such tribes.

Designated portions of such lands would be held in trust by the United States and would be subject to specified restrictions on alienation.

-- Place all Indians and Indian lands within the State of Maine under the civil and criminal jurisdiction and laws of the State, except where specifically provided otherwise, and except where declared otherwise with regard to the Passamaquoddy Tribe and Penobscot Nation by the Maine Implementing Act.

-- Declare that, as federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and Houlton Band of Maliseet Indians would be eligible to receive "all financial benefits which the United States provides to Indians, Indian nations, and tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations, or tribes or bands of Indians."

-- Declare that the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians would be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation, and any lands of said Indians that are held in trust or subject to restrictions on alienation would be considered Federal Indian reservations for the purposes of Federal taxation.

-- Declare that except as otherwise provided, the laws and regulations of the United States which are "generally applicable" to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians, would be applicable in the State of Maine.

However, no law of the U.S. that "relates or accords special status or rights" to such Indians or Indian lands, or which affects or preempts" the civil, criminal, or regulatory jurisdiction of the State of Maine, would apply within the State of Maine.

Pending land claims include those of the Wampanoag Tribe of Gay Head, Mass., which seeks 5,000 acres in the town of Gay Head; the Schaghticoke and Western Pequot Tribes in Connecticut, which are claiming some 2,000 acres in that State; the Oneida, St. Regis Mohawk, and Cayuga Nation in New York, claiming, respectively, in excess of five million, up to 14,000, and up to 64,000 acres; the Catawba Tribe in South Carolina, seeking the return of some 140,000 acres; and the Chitimacha Tribe in Louisiana, seeking the return of some 2,000 to 3,000 acres.

LEGISLATION

P.L. 96-217, S. 2222

Extends the time period within which the United States may commence an action on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status. Introduced Jan. 25, 1980; referred to Committee on Indian Affairs. Reported, with amendment (S.Rept. 96-569), Feb. 7, 1980. Passed Senate, amended, Feb. 20, 1980. Reported by House Committee on the Judiciary (H.Rept. 96-807) Mar. 6, 1980. Passed House, amended, Mar. 18, 1980. Signed into law (P.L. 96-217) Mar. 27, 1980.

P.L. 96-420, H.R. 7919

Settles claims of the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians in Maine. Reported with amendment by the House Committee on Interior and Insular Affairs on Sept. 19, 1980 (H.Rept. 96-1353). It was passed by the House, as amended, on Sept. 22, 1980, and by the Senate, as amended, on Sept. 23, 1980.

P.L. 96-484, H.R. 7212

Ratifies a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company. Introduced Apr. 29, 1980; referred to Committee on Interior and Insular Affairs; reported to House (H.Rept. 96-1144) July 1, 1980. Passed House, amended, Aug. 18, 1980. Reported from Senate Committee on Indian Affairs, Sept. 26, 1980 (S.Rept. 96-1001). Passed Senate Nov. 12, 1980. Signed into law (P.L. 97-484) Nov. 24, 1980.

H.R. 6631 (Udall)

Provides for the settlement of the land claims of the Cayuga Indian Nation in the State of New York. Introduced Feb. 26, 1980; referred to Committee on Interior and Insular Affairs. Hearings held Mar. 3, 1980. Reported (H.Rept. 96-829) Mar. 14, 1980. Failed to pass House Mar. 18, 1980.

Jones, Richard S.
IB77040

DEFENSE AND NATIONAL SECURITY

MLC-014

ARMS SALES: U.S. POLICY

...increasing reliance on arms sales...

Since World War II, the United States has assisted friendly and allied nations in establishing and maintaining defense forces to enable them to resist international subversion and external aggression. The basic tenet of U.S. military aid programs has been that such aid contributes to U.S. security by strengthening our allies and uncommitted nations, thereby easing the burden on the United States.

A major provision of law which gives Congress approval or disapproval authority over cash sales of arms is contained in section 36(b) of the Arms Export Control Act. This section (the Nelson-Bingham amendment, adopted in 1974 and amended in 1976) requires that any letter of offer to sell defense articles or services in the amount of $25 million or more or of major defense equipment in the amount of $7 million or more will be submitted to Congress prior to being issued, and will not be issued if the Congress, within 30 calendar days after receiving such statement, adopts a concurrent resolution stating that it objects to the proposed sale. This provision will be waived, however, if the President certifies that an emergency exists which requires such sale in the national security interests of the United States.

In recent years a significant trend in U.S. arms transfers has been the declining use of Military Assistance Program (MAP) grant aid and the increasing reliance on arms sales through the FMS program. The most dramatic increase in the foreign military sales program was the sale of large amounts of arms to the oil-producing states of the Middle East.

In his budget requests, President Carter demonstrated his intention of tying military assistance to human rights. The announcement of the Carter Administration's arms transfer policy, followed by subsequent decisions to sell or to consider selling quantities of armaments to various nations, led to some skepticism concerning the effectiveness of the announced policy in restricting U.S. arms exports, and raised many questions concerning arms transfers as an instrument of U.S. foreign policy.

LEGISLATION

P.L. 96-533, H.R. 6942/S. 2714

International Security and Development Cooperation Act of 1980. Amends the Foreign Assistance Act of 1961, the Arms Export Control Act, and the Peace Corps Act to authorize appropriations for FY81 for international development and security assistance programs and for arms sales. H.R. 6942 reported to House (H.Rept. 96-884, Part 1) from Committee on Foreign Affairs Apr. 16, 1980; passed House, amended, June 5. Passed Senate, amended, in lieu of S. 2714, June 17. Senate disagreed to House amendments; House insisted on amendments June 20. Conferees met on Nov. 18 and 19. Conference report filed in the House (H.Rept. 96-1471) Nov. 20. House and Senate agreed Dec. 2 and 3, respectively. Signed into law by the President Dec. 16, 1980.

Grimmett, Richard F.
IB77097

MLC-015

B-1 STRATEGIC BOMBER/STRATEGIC WEAPONS LAUNCHER PROGRAM: 1980

...Carter halted production...

The Reagan Administration's commitment to bolster U.S. strategic capabilities may be symbolized by its expected decision to develop a new manned bomber. Since the cancellation of the B-1 procurement program by President Carter in 1977, there has been no agreed plan for replacing the aging B-52 aircraft that comprise the vast majority of the "bomber leg" of the U.S. strategic triad. Instead, research and modernization programs have been funded for converting G models of the B-52 -- and exploring the adaptability of other platforms -- to carriers for air-launched cruise missiles (ALCM). Cruise missiles, launched from aircraft beyond the range of hostile air defenses, constitute an "air breathing" system (i.e., something other than a ballistic missile), which could supplement the bomber in its more traditional role as penetrator. Early proponents of the cruise missile viewed it even as a replacement for the penetrating bomber in an approaching era of improved Soviet air defense. With the cruise missile still in final stages of development, however, and an Initial Operational Capability (IOC, or first availability for military use) set for December 1982, the 96th Congress made clear its desire that the Air Force retain a long-term combat aircraft with the capability to deliver bombs (nulcear or conventional) directly on targets.

In addition to suggested cost savings, a key justification for the termination of the original B-1 program, after the acquisition of six prototype aircraft, was the continued serviceability and survivability of the B-52 as a stand-off launching platform for cruise missiles over the time period needed to design and produce a new platform uniquely suited to that mission. An Air Force analysis in 1980 reaffirmed the utility of the B-52 in that role against the threat projected through the 1980s, thus removing much of the impetus behind an Air Force evaluation of two near-term candidates for the Cruise Missile Carrier Aircraft (CMCA). Those candidates in a hardware competition mandated by Congress in FY80 legislation were a B-1 derivative called Strategic ALCM Launcher (SAL), and a transport aircraft of either commercial or military design. Completion of that evaluation was not funded in FY81, owing to Air Force reports of a preliminary analysis that already showed clear advantages in the B-1 derivative, and to renewed concern in Congress over the need for a strategic bomber which could serve in both the penetrating and stand-off roles.

The FY81 Defense Authorization Act (P.L. 96-342) provides $300 million for full-scale development of a multi-role bomber of a design consistent with the achievement of an IOC (Initial Operational Capability, i.e., the beginning date of actual military service) not later than 1987. The report to Congress explaning whatever aircraft choice is finally made by the Pentagon is due by Mar. 15, 1981. The Defense Appropriation Act (P.L. 96-527) explicitly provides for the reprogramming of any unused protion of these funds into advanced procurement for the aircraft finally selected by DOD. Although the type of aircraft is not dictated, much of the enthusiasm for this provision stems from hopes that parts of the B-1 procurement program will be revived, and some of the investment already made (given as $4 to $5.5 billion) thereby recovered. Among the other options would be to "stretch" the FB-111, the other bomber now in service with the Strategic Air Command (SAC).

Predominant interest among Reagan supporters appears to lie in the B-1 as the basic platform not only for a new multi-role bomber, but also for a new cruise missile carrier. The Reagan campaign vigorously rebuked President Carter's cancellation of the original B-1 program, and some steps to recover perceived losses from that decision are to be expected. At the same time, the Reagan Administration will continue to exploit new cruise missile technology, pressing for timely deployment of the ALCM, first on B-52 aircraft as presently being adapted for that purpose.

Under the Carter Administration, the Air Force budget submitted for FY81 contained $3.9 billion for ongoing B-52G modernization programs (both RDT&E and procurement) and new research and development for adapting H models. If H models are subsequently funded for conversion, B-52 modernization costs from FY81 to program completion around 1990 are estimated at $7.1 billion. The addition of $3.4 billion obligated previous to FY81 gives a total cost of $10.5 billion.

Reports from the Reagan transition group indicate plans to accelerate the conversion of B-52Gs while providing them additionally with improved engines to enable them to take off more quickly under an attack. 1985 is reportedly the goal for completion of that program. One estimate for its added cost is about $300 million in FY81 and $1.8 billion through 1985. 1985 has also been mentioned as the IOC being promoted for 100 new cruise missile carriers based on the B-1. Critics may challenge the need to pursue both programs over the identical period of time.

A second program has sought to exploit a B-1 prototype in application with new avionics and electronic counter-measure (ECM) equipment to test bomber penetration capabilities against predicted Soviet air defenses. The $30.7 million requested for FY81 was to be the Carter Administration's last expenditure in winding down the B-1 program. The new Administration's plans in this area, as in other Strategic Bomber Enhancement programs, will depend in part on how much effort will be directed into an all-new system for production over the longer term, and how much will be devoted to deploying in the nearer term a bomber to incorporate technology now "on the shelf."

An interim bomber to be acquired on the schedule specified in P.L. 96-342 (NLT 1987) would probably not capitalize fully on current research such as "stealth." Accordingly, an aircraft of new design with the newest technology, with an IOC after 1990, remains a strong possibility.

If the Administration seeks funding for the development of such a bomber for the future, Congress may question the cost-effectiveness of some of the "quick-fixes" under consideration.

LEGISLATION

P.L. 96-342, H.R. 6974

Department of Defense Authorization Act, 1981. States in Section 204:

'(a) The Secretary of Defense shall vigorously pursue full-scale engineering development of a strategic multi-role bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system in both the tactical and strategic role.

'(b) Of the funds authorized to be appropriated for the Air Force under this title RDT&E, $300,000,000 may be obligated or expended for full-scale development, following compliance with subsection (c), of a multi-role bomber aircraft to achieve an Initial Operational Capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. Such aircraft shall have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system.

'(c) The Secretary of Defense shall submit a status report to the Committees on Armed Services by March 15, 1981, on the results of the development effort to date. The Secretary shall include in such report conparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include, but not be limited to, advanced technology aircraft, the B-1 bomber aircraft and derivatives of the B-1 aircraft, and the FB-111B/C aircraft."

P.L. 96-527, H.R. 8105

Defense Appropriations Act, 1981. Appropriates $300 million as contained in the authorizing legislation, explicitly providing that unobligated amounts of that funding can be made available upon reprogramming for advanced procurement for the aircraft chosen by the Secretary of Defense.

[For legislative action on bills, see DEFENSE BUDGET -- FY81.]

Tinajero, A.A.; Cronin, Richard P.
IB75040

MLC-016

DEFENSE BUDGET – FY80

...apparent shift in priorities...

As proposed in January 1979, the Carter Administration's FY80 defense budget reflected an apparent shift in priorities, the effect of which would reverse -- by a slight margin -- an 11-year decline in the share of Federal resources allocated to the National Defense function.

The Administration requested a total of $138.2 billion in new budget authority for the National Defense function of the budget, or about 8% more than the estimate for FY79 (which included a planned supplemental request of about $4.4 billion over and above funds already appropriated by Congress). Estimated outlays were to increase by nearly 10% to a total of $125.8 billion. It was expected that these increases would yield real growth, after taking inflation into account, of about 1.7% in new budget authority and 3.1% in outlays.

Subsequent to congressional action on the regular FY80 defense authorizations and appropriations, the President requested additonal funding to cover the higher cost of operations associated with the crisis deployment of additonal military forces in the Persian

Gulf/Indian Ocean area. The revised FY80 totals as set by Congress in the First Concurrent Resolution on the budget for FY81 now include $143.7 billion in budget authority and $135.7 billion in outlays for the National Defense function.

The following major issues were considered in discussions of the FY80 defense budget and the FY79 supplemental budget request:

-- the relative priority of defense programs versus social and economic programs within a constrained budget total.

-- the proclaimed impending vulnerability of the existing land based missile forces, in particular the need, cost, effectiveness, and arms control impact of the Air Force's M-X ICBM program, and the relationship of strategic weapons modernization programs to SALT II.

-- the future role and composition of the Navy's surface fleet and the proposed construction of a new mid-sized non-nuclear aircraft carrier.

-- related to the above, the low proposed production rates for Navy tactical aircraft in the face of an impending shortage of carrier aircraft in the early 1980s.

-- the Administration's commitment to increase funding for NATO related programs and the extent, given controversial economic assumptions in the budget, to which the proposed FY80 budget would fulfill the commitment to increase defense spending in real terms by 3% a year.

LEGISLATION

P.L. 96-107, S. 428

Department of Defense Appropriation Authorization Act, FY80. Authorizes appropriations for FY80 for military weapons procurement and for military research, development, test, and evaluation. Sets forth end strength levels for active duty and reserve military personnel and for civilian personnel within the Department of Defense. Sets forth authorized military training loads for components of the various armed forces. Requires the Secretary of Defense to submit quarterly acquisition reports to Congress for major defense systems which will require financing above a specified level. S. 428 introduced Feb. 9, 1979; referred to Committee on Armed Services. Reported to the Senate, with amendment (S.Rept. 96-197), May 31. Passed the Senate, amended, June 13, 87-9. As approved by the Senate, S. 428 would authorize $40,097 million for weapons procurement, RDT&E, and civil defense, or about $26 million less than the Administration request and about $1,296 million less than the House bill. S. 428 passed the House Sept. 14, 1979, in lieu of H.R. 4040. Conference held. Conference reports filed in the House (H.Rept. 96-521) and in the Senate (S.Rept. 96-371) Oct. 17, and a second report filed in the House (H.Rept. 96-546) Oct. 23. Senate and House agreed to conference report Oct. 24 and 26, respectively. S. 428 signed into law as P.L. 96-107 Nov. 9, 1979.

P.L. 96-125, S. 1319

Military Construction Authorization Act, 1980. Reported to the Senate on June 12, 1979 (S.Rept. 96-209). Passed the Senate, amended, July 30. Passed the House amended, in lieu of H.R. 3947, Oct. 24. Conference held. Conference reports filed in the House (H.Rept. 96-595) and in the Senate (S.Rept. 96-409) Nov. 8. Senate and House agreed to conference report. S. 1319 signed into law as P.L. 96-125 Nov. 26, 1979.

P.L. 96-130, H.R. 4391

Military Construction Appropriation bill, 1980. Makes appropriations for military construction and family housing for the Department of Defense for the fiscal year ending Sept. 30, 1980. Reported to the House June 7, 1979 (H.Rept. 96-246). Passed the House, 366-21, June 18. Referred to Senate Committee on Appropriations. Passed the Senate, amended, Nov. 13, 1979. Conference held. Conference report filed Nov. 15 in the House (H.Rept. 96-626), to which Senate and House agreed. H.R. 4391 signed into law as P.L. 96-130 Nov. 30, 1979.

P.L. 96-154, H.R. 5359

Department of Defense Appropriation bill, 1980. Makes appropriations for the Department of Defense, and for other purposes, for the fiscal year ending Sept. 30, 1980. Reported to the House Sept. 20, 1979 (H.Rept. 96-450). The Appropriations Committee recommended appropriations totalling $127.4 billion for National Defense, a reduction of $2.2 billion from that requested. H.R. 5359 passed the House, 305-49, on Sept. 28, 1979. The appropriation of $129.5 billion included all programs recommended by the Committee plus $10 added by amendment for Army medical programs. Passed the Senate, amended, Nov. 9. Conference report filed in the House Dec. 11, 1979; agreed to by House and Senate. H.R. 5359 signed into law as P.L. 96-154 Dec. 21, 1979.

P.L. 96-164, S. 673

Authorizes appropriations to the Department of Energy for national security programs for FY80 and FY81, and for other purposes. Introduced Mar. 15, 1979; referred to Committees on Armed Services and Energy and Natural Resources. Reported to the Senate jointly (S.Rept. 96-193) May 22. Passed Senate, amended, June 18, 1979. Passed House, amended, Nov. 9, in lieu of H.R. 2603. Conference held. Conference report filed in the House (H.Rept. 96-702); agreed to by House and Senate. S. 673 signed into law as P.L. 96-164 Dec. 29, 1979.

P.L. 96-304, H.R. 7542

The Supplemental Appropriations and Recission Bill for FY80. Provides funding for the added cost of deployments to the Persian Gulf/Indian Ocean and for the annual Oct. 1 cost-of-living pay increase. Reported to the House June 11, 1980 (H.Rept. 96-1086). Passed the House, amended, 294-106, June 19. Reported to the Senate June 23 (S.Rept. 96-829). Passed the Senate, amended, 53-22, June 28. Conference report filed in the House July 2 (H.Rept. 96-1149), to which House and Senate agreed. Signed into law as P.L.-304 July 8, 1980.

H.Con.Res. 107 (Giaimo et al.)/S.Con.Res. 22 (Muskie)

First Concurrent Resolution on the Budget. Sets forth the congressional budget for FY80 and revises the congressional budget for FY79. H.Con.Res. 107 passed the House, amended, May 14, 1979, and passed the Senate, amended, with the text of S.Con.Res. 22 inserted, May 15. Conference reports filed in the House (H.Rept. 96-211) and in the Senate (S.Rept. 96-192) May 21. Motion to recede from Senate amendment and accept conference substitute failed in House May 23. Revised conference report, including addition of funds for function 500 (Education, Training, Employment and Social Services) passed Senate May 23. The House agreed to Senate amendment May 24, 1979. As finally approved, H.Con.Res. 107 provides targets of $136.6 billion in budget authority and $124.2 billion in outlays for the National Defense function versus $138.2 billion (BA) and $126.0 billion (outlays) requested by the Administration.

Cronin, Richard P.
IB79040

MLC-017

DEFENSE BUDGET - FY81

..."real growth" in defense spending...

What initially figured to be a heated "guns versus butter" debate over the FY81 defense budget and the promise of a balanced budget was overshadowed by a general mood in Congress to address perceived weaknesses in U.S. military strength. Spurred by perceptions of both a Soviet military build-up and threats to U.S. security interests in the Persian Gulf/Indian Ocean area posed by the Soviet occupation of Afghanistan and the Iranian hostage crisis, Congress supported (with little dispute) a substantial increase in the defense budget over the President's request.

On Dec. 5, 1980, Congress passed the DOD appropriation bill making $160.0 billion in total funding available for FY81. The measure is $5.2 billion more than the amount requested by the President last March, and represents an increase of nearly $22 billion over the appropriation for FY80. The approved total does not include money for recent pay raises and fuel cost increases which will be funded by a supplemental appropriation in 1981.

The second concurrent resolution passed both the House and Senate on Nov. 20, establishing a ceiling of $172.7 billion in budget authority for the national defense budget function. This measure increases by $2.2 billion in budget authority the amount established for the National Defense function in the first concurrent resolution. The budgetary ceilings contained in the second concurrent resolution are likely to be revised upwards next spring to accommodate a substantial FY81 supplemental appropriation.

LEGISLATION

P.L. 96-342, H.R. 6974

Department of Defense Authorization Act, 1981. Authorizes appropriations for FY81 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces. Prescribes the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense. Authorizes the military training student loads. Authorizes appropriations for FY81 for civil defense, and for other purposes. Introduced Mar. 31, 1980; referred to Committee on Armed Services. Reported to the House, with amendment (H.Rept. 96-916), Apr. 30, 1980. Passed House, amended, May 21; referred to Senate Committee on Armed Services. Reported to the Senate, with amendment (S.Rept. 96-826), June 20, 1980. Passed Senate, amended, July 2, by a vote of 84-3. Conference held. Reported from conference (H.Rept. 96-1222/S.Rept. 96-895) Aug. 18. House agreed to conference report 360-49 (roll call vote #489) and Senate agreed 78-2 (roll call vote #384) on Aug. 26. Signed into law (P.L. 96-342) Sept. 8, 1980.

P.L. 96-369, H.J.Res. 610

Makes continuing appropriations for FY81 to the Federal Departments and agencies. Reported to the House (H.Rept. 96-1327) from the Committee on Appropriations with amendment Sept. 17, 1980. Passed House, amended, (223-153) Sept. 18. Referred to Senate Committee on Appropriations Sept. 22. Reported to Senate (without written report) with amendment Sept. 24. Passed Senate, amended (58-27) Sept. 29. Conference held. Conference report filed in House (H.Rept. 96-1443) Sept. 30. House agreed to conference report and Senate amendments with an amendment (292-100) Sept. 30. Senate agreed to conference report as amended by House with an amendment Sept. 30. House agreed to Senate amendment Oct. 1. Signed into law (P.L. 96-369) Oct. 1, 1980.

P.L. 96-418, H.R. 7301

Military Construction Authorization Act, 1981. Authorizes certain construction at military installations for FY81 and the transfer of specified lands. Introduced June 7, 1980; referred to the Committee on Armed Services. Reported to the House (H.Rept. 96-1009) May 16, 1980. Passed House, amended (337-22) Sept. 10 Passed House, amended (337-22) Sept. 10. Passed Senate, amended, in lieu of S. 3059 (89-3) Sept. 16. Conference held. Conference report filed in House (H.Rept. 96-1399) Sept. 25. Senate agreed to conference report Sept. 30; House agreed Oct. 1. Signed into law (P.L. 96-418) Oct. 10, 1980.

P.L. 96-436, H.R. 7592

Makes appropriations for military construction for DOD for FY81. Reported to the House (H.Rept. 96-1097) from the Committee on Appropriations June 17, 1980. Passed House, amended, June 27; referred to the Senate Committee on Appropriations June 30. Reported to the Senate (S.Rept. 96-931) from the Committee on Appropriations, with amendment, Sept. 9. Passed Senate, amended (84-3) Sept. 17. Conference held. Conference report filed in House (H.Rept. 96-1433) Sept.

29. House agreed to conference report (342-29), receded and concurred in certain Senate amendments, and added an amendment, Sept. 30. Senate agreed to conference report and agreed to the House amendment Sept. 30. Signed into law (P.L. 96-436) Oct. 13, 1980.

P.L. 96-527, H.R. 8105

Department of Defense Appropriation Act, 1981. Makes appropriations to the Department of Defense for FY81. Reported to the House (H.Rept. 96-1317) from the Committee on Appropriations Sept. 11., 1980. Passed House, amended (351-42) Sept. 16; referred to Senate Committee on Appropriations Sept. 18. Reported to the Senate (S.Rept. 96-1020) Nov. 19. Passed Senate, amended, Nov. 21. Conference report filed in the House (H.Rept. 96-1528) Dec. 4. House agreed, and concurred with Senate amendments with amendments. House agreed Dec. 5. Signed into law by the President Dec. 15, 1980.

P.L. 96-540, S. 3074

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981. Authorizes appropriations for the Department of Energy for national defense programs for FY81. Introduced Aug. 26, 1980; referred to the Committee on Armed Services. Reported to the Senate (S.Rept. 96-920) Aug. 26, 1980. Passed Senate Sept. 30, 1980. Passed House, amended, in lieu of H.R. 7265 Nov. 20. Senate agreed to House amendment with amendment; House agreed Dec. 1. Signed into law by the President Dec. 17, 1980.

H.Con.Res. 307 (Giaimo)

First Concurrent Resolution on the Budget. Sets forth the congressional budget of the U.S. Government for FYs 81, 82, and 83, and revises the congressional budget for FY80. Reported to the House by the Committee on the Budget Mar. 20, 1980, and committed to the Committee of the Whole House on the State of the Union. Reported to the House (H.Rept. 96-857) from the Committee on the Budget Mar. 26, 1980. Passed House, amended, Apr. 7; passed Senate, amended, May 12, in lieu of S.Con.Res. 86. Conference report filed in the House (H.Rept. 96-105) and in the Senate (S.Rept. 96-792) May 23, 1980. Motion to recede from its disagreement to Senate amendment and concur with an amendment rejected in the House (141-242) May 29; failed again (173-199) May 29. House motion to insist on its disagreement with the Senate passed (202-120) May 29. Senate insisted on its amendment, June 11. Motion to recede from its disagreement and concur in Senate amendment with an amendment passed the House 205-195 (roll call vote #321) June 12. Senate agreed to House amendment 61-26 (roll call vote #203) June 12, 1980.

H.Con.Res. 448 (Giaimo)

Second Concurrent Resolution on the Budget. Sets forth the congressional budget for the U.S. Government for FYs 81, 82, and 83. Reported to the House (H.Rept. 96-1463) from the Committee on the Budget. Passed House, amended, Nov. 18, 1980. Passed Senate, amended, in lieu of S.Con.Res. 119 Nov. 19. Conference held. Conference report filed in the House (H.Rept. 96-1469). House and Senate agreed Nov. 20, 1980.

Zinsmeister, Paul C.; Maroni, Alice
IB80037

MLC-018

FIGHTER AIRCRAFT PROGRAMS: F-14, F-16, AND F/A-18

...rising costs and declining forces in tactical aviation...

Since the mid-1970s, congressional attention has focused mainly on three fighter aircraft programs -- the Navy F-14, the Air Force F-16, and the Navy/Marine Corps F/A-18 -- because of the rising procurement and operating costs and declining force levels of tactical fighter and attack planes.

F-14

The F-14A Tomcat, armed with the long-range multi-shot Phoenix air-to-air missile, is the U.S. Navy's most advanced fighter plane. The F-14/Phoenix system is the Navy's primary fleet air-defense interceptor and is expected to counter the threat of Soviet cruise missiles and high-performance aircraft during the 1980s, including the Backfire fighter-bomber. The F-14 has been a controversial weapon system since its inception in 1969, primarily because of cost and operational problems. Issues of concern to the 96th Congress continue to involve the cost effectiveness of the F-14A, resolution of its engine and missile problems, and its rate of production. Broader issues affecting the program include: (1) the roles and missions of U.S. Navy aircraft in the 1980s in response to national objectives and foreign threats, (2) the military value of the F-14 in that context, and (3) the effects of inflation and annual production rates on program costs and annual procurement costs. The number of aircraft in the F-14 program is currently 491.

In the Sept. 30, 1980, Selected Acquisition Report (SAR), the Department of Defense estimated the cost of the F-14 aircraft program at $11.7 billion (with a unit cost of some $23.8 million for 491 planes). These figures are in "then-year dollars," which reflect actual inflation in prior years and projected inflation until the end of the program in the mid-1980s. Inflation, production rates, and design changes will affect production costs in the final phase of the acquisition cycle.

F-16

Developed by General Dynamics for the U.S. Air Force as a replacement for its aging F-4 fighters and a lower-cost complement to its high-performance F-15 Eagle fighters during the 1980s, the F-16 "multirole fighter" emerged from the Lightweight Fighter Program initiated by USAF during the early 1970s in response to the rising costs of tactical planes. The program is currently projected to provide 1,396 aircraft -- including 348 F-16s being bought by four NATO governments and eight development aircraft. This 1,396-plane program is estimated to cost some $18.8 billion in then-year dollars, for a program unit cost of $13.4 million. Through FY80, some $5.7 billion has been provided for the F-16 program. The FY81 budget provided funding for 180 aircraft. Deliveries began in 1978, with USAF's first F-16 squadrons operational in 1980. The program has been relatively free of major controversy, but congressional concerns have been voiced about cost increases, the reliability of the F-16's single F100 engine, and the capabilities of its avionics system, as well as the implications of foreign sales. In addition to the NATO sale, 75 F-16s are being sold to Israel and 40 are to be bought by Egypt. Several other countries are also considering buying F-16s. Congress authorized funding as requested for the F-16 program in FY80 and FY81.

F/A-18

The F/A-18 Hornet is being developed by the Navy Department to provide a multipurpose fighter-attack plane that can replace older aircraft such as F-4 fighter and the A-7E light attack planes during the 1980s. As the Navy's largest currently projected aircraft program in total funding requirements and production quantities, the F/A-18 has focused attention on the future roles and missions of sea-based aviation. Recent congressional debate has raised basic questions about the budgetary costs, force levels, and performance capabilities that may be required to maintain adequate Navy and Marine tactical air capabilities in the 1980s.

Armed with medium-range Sparrow and short-range Sidewinder air-to-air missiles, a 20mm gun, and air-to-surface ordnance, the F/A-18 is competing for Naval aviation funds with the high-performance F-14/Phoenix fleet air defense system and the Marine Corps' AV-8B vertical/short takeoff and landing (V/STOL) aircraft. The Carter Administration recommended that the Marines use the F/A-18 for both fighter and attack missions, but Congress and the Marine Corps have strongly supported the AV-8B for the attack role. Supporters of the F/A-18 expect this program to provide the numbers of planes the Navy expects to need. Critics argue that the F/A-18 will be less combat-effective than the F-14 and AV-8B aircraft, which might be sacrificed to buy large quantities of F/A-18 in the 1980s. In the FY80 budget, the F/A-18 program was increased from 811 to 1,377 aircraft, estimated in mid-1980 to cost some $30 billion through the 1980s -- $21.7 million per plane in then-year dollars -- but higher program costs are anticipated.

LEGISLATION

P.L. 96-29, H.R. 2575/S. 429

Department of Defense Supplemental Appropriation Authorization Act, 1979. The Administration requested $460 million for procurement of the 55 F-16s originally ordered for Iran. The House and Senate Armed Services Committees denied this request (without prejudice to the USAF program) because these planes would be bought by Israel under the Israeli-Egyptian peace agreement of Mar. 26, 1979. S. 429 was passed by the House May 31, after being amended to contain the language of H.R. 2575 was passed. Conference reports were filed June 18 in the House (H.Rept. 96-282) and in the Senate (S.Rept. 96-223). Signed into law as P.L. 96-29 June 27

P.L. 96-107, H.R. 4040/S. 428

Department of Defense Authorization Act, 1980.

For the F-14, the Administration requested funding for procurement of 24 F-14As in FY80. S. 428, as passed by the Senate on June 13, 1979, authorized a 24-plane buy. H.R. 4040, as passed by the House on Sept. 14, 1979, authorized a 36-plane buy. The conferees agreed to buy 30 F-14s in FY80, 30 in FY81.

For the F-16, the authorization bill contained $1,699.6 million for 175 F-16s for USAF, as requested by DOD.

For the F/A-18, the Administration requested funding for 15 F/A-18s. The House Armed Services Committee recommended buying 30 for $1,529.8 million. The Senate Armed Services Committee recommended a 25-plane buy for $1,018 million, which the Senate approved in passing S. 428 in lieu of H.R. 4040 on June 14, 1979, after rejecting (78 to 18) the Hart amendment to delete these funds.

Conference reports were filed in the House (H.Rept. 96-521) and in the Senate (S.Rept. 96-371) Oct. 17, 1979. A second House conference report (H.Rept. 96-546) was filed Oct. 23. The Senate and House agreed Oct. 24 and 26, respectively. The bill was signed into law Nov. 9, 1979.

P.L. 96-342, H.R. 6974

Department of Defense Authorization Act, 1981.

For the F-14, the Administration requested funding for procurement of 24 F-14s in FY81, but H.R. 6974, passed by the House on May 21, and by the Senate on July 2, 1980, authorized a 30-plane buy.

For the F-16, the House on May 21 authorized $1,733.8 million for procurement of 180 F-16s in FY81 -- as requested by DOD -- and containing advanced procurement funding for 180 in FY82, although the Administration requested funds for 120 in FY82. The Senate version, passed on July 2, 1980, was similar.

For the F/A-18, the Administration requested funding for 48 F/A-18s. H.R. 6974, passed by the House on May 21, 1980, authorized a 72-plane buy, but the Senate version, passed on July 2, 1980, authorized only 60 F/A-18s in FY81. House/Senate conferees agreed on a 60-plane buy in FY81.

The bill was signed into law as P.L. 96-342 on Sept. 8, 1980.

P.L. 96-527, H.R. 8105

Department of Defense Appropriation Act, 1981. Provides funding for F-14s, F-16s, and F/A-18s as authorized in P.L. 96-342. Reported to the House (H.Rept. 96-1317) from the Committee on Appropriations Sept. 11, 1980. Passed House, amended, Sept. 16; referred to the Senate Committee on Appropriations. Reported to the Senate, with amendment, Nov. 19 (S.Rept. 96-1020). Passed Senate, amended, Nov. 21. Conference held Dec. 2-3. Conference report filed in the House (H.Rept. 96-1528) Dec. 4. House agreed to conference report, and concurred in Senate amendments with amendments. Senate agreed Dec. 5. Signed into law by the President Dec. 15, 1980.

Cooper, Bert

MLC-019

INTELLIGENCE COMMUNITY: REFORM AND REORGANIZATION

...new comprehensive statutory charters and guidelines...

Since 1975 there have been three major investigations of intelligence community activities, aimed at revealing past abuses of authority and at making recommendations to prevent their repetition in the future. A number of reforms and major organizational changes have already been enacted under Presidents Ford and Carter without specific legislation.

Numerous factors serve to complicate any choice or decision in improving control over intelligence activities. The intelligence community consists of a number of agencies and bureaus, which have developed largely independent of one another. This has raised the question of whether this structure forces beneficial competition or fosters unnecessary overlapping. It has also raised the question of whether or not the Director of Central Intelligence can fulfill his role as coordinator of the U.S. foreign intelligence effort and also adequately run the CIA, or whether elevating him to an overall coordinative role might not subject him to pressures from policy makers for intelligence results compatible with preferred policy choices. President Carter's changes give added relevance to these questions.

Critics of intelligence activities have charged that current charters for some of these groups are vague or largely unavailable because of classification in the areas defining duties, responsibilities and permissible activities. Intelligence, by its very nature, requires secrecy; to what extent this impinges on accountability, control and oversight remains difficult to judge. How does one judge whether current intelligence is adequate? When are covert operations permissible? These questions and many other findings and recommendations by the previous Congressional committees are still before Congress.

In May 1976 the Senate voted to establish a committee to oversee intelligence activities. On July 14, 1977, the House took similar action.

A number of bills were introduced during the 95th Congress proposing major reorganization and reforms in the intelligence community. A number of these (H.R. 4173, H.R. 6051, H.R. 6195) were introduced by members of the House prior to the creation of the House Intelligence Committee. On Feb. 9, 1978, the Senate Intelligence Committee introduced S. 2525, which offered comprehensive statutory charters and guidelines for the intelligence community, some for the first time; many were similar to those previously enacted by President Carter, and the two branches had cooperated on the framing of this bill. An identical bill was introduced in the House on Mar. 2, 1978. Initial hearings were held by the Senate committee in which a number of witnesses made recommendations for redrafting the bill, largely in terms of being less specific in prohibitions and restricted activities. The crises in Iran and Afghanistan have given new impetus to completion of the charters.

After long negotiations between Congress and the Executive, new charter legislation, S. 2284, was introduced on Feb. 8, 1980. The House bill, H.R. 6588, was introduced on Feb. 25, 1980. In the original version, the number of reporting requirements and specific restrictions were reduced, but a number of issues remained, including the question of separating the Director of all U.S. intelligence activities from the CIA, and whether Congress should receive prior notification of covert actions, which is required by S. 2284 but which the Carter Administration does not want.

When it became apparent that this long bill could not be passed during this session, the Senate Intelligence Committee decided to report out a revised version which confirms Congress' oversight role, reduces reporting under Hughes-Ryan to the two Intelligence Committees with prior notice save for certain extraordinary circumstances, when it can be limited or given *ex post facto* "in a timely fashion," and requires notification of illegal activities and intelligence failures. The Senate Intelligence Committee reported the bill on May 15, 1980 (S.Rept. 96-730), and it passed the Senate, 89-1, on June 3, 1980. These provisions were subsequently added to the FY81 Intelligence authorization bill, S. 2597, which was accepted by both Houses after a further amendment clarifying that the bill's provisions did not allow the Executive to withhold information on the grounds of unauthorized disclosure or to protect sources and methods (H.Rept. 96-1350, Sept. 19, 1980). This bill was signed into law (P.L. 96-450) on Oct. 14, 1980.

On June 26, 1980 the House Intelligence Committee reported out a revised charter as well, H.R. 7668. This bill differed from that passed by the Senate in that it requires prior notice of special activities without exception, but does not include a requirement for reporting significant anticipated activities to Congress. In addition, under the limited prior notice provision in the House bill only the chairmen and ranking members of the Intelligence Committees would be informed, but not the congressional leadership. Other provisions, limiting Hughes-Ryan reporting to the two Intelligence Committees only, and authorizing congressional oversight, are largely the same. The House subsequently accepted S. 2597, amended, in lieu of H.R. 7668.

In addition to the charter legislation, a number of bills were introduced which would either revise or repeal the Hughes-Ryan amendment, which requires a Presidential finding and report to eight congressional committees in order to expend funds for a CIA covert action. These various bills raised the further question as to whether this problem should be expedited and handled separately, which was the case, or should be taken up as part of the charter legislation, which also establishes oversight requirements for covert action and repeals Hughes-Ryan.

Finally, both Houses considered legislation which would make it a crime to reveal in an unauthorized manner the identity of an employee of an intelligence agency. H.R. 5615 was reported to the House by both the Committee on Intelligence (H.Rept. 96-1219, Part 1) and the Committee on the Judiciary (H.Rept. 96-1219, Part II). A similar provision was embodied in S. 2216, which was reported to the Senate by the Committee on Intelligence (S.Rept. 96-896), and by the Committee on the Judiciary (S.Rept. 96-990). Some opposition to these measures has arisen over concerns that they would subject journalists who discovered information from unclassified sources to its terms and to prosecution, thus raising questions about First Amendment rights. This concern centers largely on the House version, as the Senate bill requires proof that the disclosure was part of "a pattern of disclosure of activities intended to identify and expose covert agents," and was done "with reason to believe" that it would impede intelligence activities.

LEGISLATION

P.L. 96-450, S. 2597

Intelligence Authorization Act for FY81. Introduced Apr. 23, 1980; reported favorably to the Senate (S.Rept. 96-659). Passed Senate, June 28, 1980, amended to include S. 2284. Passed House, amended, in lieu of H.R. 7152, July 28, 1980. Conference report filed in House Sept. 19 (H.Rept. 96-1350). Senate agreed to conference report Sept. 19, 1980; House agreed on Sept. 30, 1980. Signed into law (P.L. 96-450) on Oct. 14, 1980.

P.L. 96-456, S. 1482

Classified Information Procedures Act. Establishes procedures for ciminal cases involving classified information. Bill stems from congressional concern regarding "graymail," i.e., instances where cases were not prosecuted for fear of revealing classified information. Introduced July 11, 1979; referred to Senate Judiciary Committee. Reported to the Senate (S.Rept. 96-823), June 18, 1980. Passed Senate, June 25, 1980. Referred to House Committees on Judiciary and Intelligence. Passed House, amended, in lieu of H.R. 4736. Conference report (H.Rept. 96-1436, Sept. 30, 1980) agreed to by the Senate, Sept. 30, 1980, and by the House, Oct. 2, 1980. Signed into law (P.L. 96-456) Oct. 15, 1980.

P.L. 96-533, H.R. 6942

International Development and Security Cooperation Act of 1980. Includes an amendment (Section 112) for the Hughes-Ryan amendment, requiring prior notification of the House and Senate Intelligence Committees. The President may defer this prior reporting "for the shortest practicable period" if he certifies at the time that he does report that the delay was necessary to meet extraordinary circumstances affecting vital U.S. interest, or was "essential to avoid unreasonable risk to the safety or security of the personnel or methods employed." Introduced Mar. 26, 1980; referred to the Committee on Foreign Affairs, and sequentially to the House Intelligence Committee, which raised no objection but may further revise it in legislation of its own. Reported by the House Foreign Affairs Committee, Apr. 16; and the House Intelligence Committee, May 1, 1980 (H.Rept. 96-884, parts 1 and 2, respectively). Amendment regarding Hughes-Ryan passed House, 325-50, May 28, 1980, but was dropped in conference (see P.L. 96-450). H.R. 6942 passed the House, 221-147, June 5; passed the Senate, amended, 58-32, June 17, 1980, in lieu of S. 2714. Conference report filed in the House (H.Rept. 96-1471) Nov. 20. House and Senate agreed Dec. 2 and 3, respectively. Signed into law by the President Dec. 16, 1980.

Lowenthal, Mark M.
IB76039

MLC-020

MILITARY MANPOWER FOR MOBILIZATION: THE DRAFT, REGISTRATION, AND SELECTIVE SERVICE

...about 94% of eligible men registered...

Fueled by the debate over resuming military draft registration, concern over the adequacy of U.S. military manpower has captured nationwide attention. Last year, after heated debate, Congress rejected legislative proposals initiated by the House and Senate Armed Services Committees that would have forced President Carter to resume registration. The Administration vigorously opposed these proposals, preferring its own plan that would have provided funds for the Selective Service System to improve its capability to register draft-age youth after the President had ordered mobilization.

On the heels of the Soviet invasion of Afghanistan, the Administration reversed its postion; in his Jan. 23, 1980; State of the Union message, President Carter called for the registration of both men and women. Congress rejected the President's plan to register women and voted to provide $13.3 million to enable Selective Service to begin registering 19- and 20-year old males during a 2-week period beginning July 21, 1980.

On July 18, 1980, a three-judge Federal court in Philadelphia (United States District Court) ruled unanimously that the Selective Service Act is unconstitutional because it excludes women, and ordered the Government not to proceed with registration. Supreme Court Justice Brennan stayed the injuction of the lower court so that registration could proceed pending a decision by the full court.

Based on preliminary results, Selective Service claimed that 93% of those eligible went to their local Post Office and registered. These results, which are disputed by opponents of registration, are being audited by the General Accounting Office. In October the Selective Service System announced that the continuing influx of late registrations for military service had raised the percentage of eligible men registering to 94%.

On Dec. 1, 1980, the Supreme Court agreed to rule on the constitutional question (*Rostku* v. *Goldberg*, No. 80-251). In the interim, males born in 1962 will be required to register the week of Jan. 5, 1981. Thereafter, males will be required to register when they reach age 18.

LEGISLATION

P.L. 96-107, S. 428/H.R. 4040

DOD Appropriation Authorization Act for FY80. Section 811 requires the President to prepare a plan for a "fair and equitable" reform of the laws governing registration and induction into the Armed Forces. The plan, together with any necessary implementing legislation, must be submitted to Congress by Feb. 9, 1980. Section 812 amends the Military Selective Service Act to include a congressional declaration that the Selective Service System should remain an independent agency. S. 428 was passed by the House, amended, Sept. 14, 1979, in lieu of H.R. 4040. Conferences held. Conference reports filed in the House (H.Rept. 96-521) and in the Senate (S.Rept. 96-317) Oct. 17. A second conference report was filed in the House (H.Rept. 96-546) Oct. 23. Senate and House agreed to conference report. Signed into law (P.L. 107) Nov. 9, 1979.

P.L. 96-282, H.J.Res. 521

Makes additional funds available by transfer for FY80 for the Selective Service System. Introduced Mar. 26, 1980; referred to the House Committee on Appropriations. Reported to the House (H.Rept. 96-885) Apr. 18. Passed the House, amended, Apr. 22; referred to the Senate Committee on Appropriations. Reported to the Senate (S.Rept. 96-865) May 13. Passed the Senate, 58-31, June 12, 1980. Signed into law (P.L. 96-282) by the President June 27.

Zinsmeister, Paul
IB79049

MLC-021

MX INTERCONTINENTAL BALLISTIC MISSILE PROGRAM

...controversial successor to current U.S. ICBMs...

The land-based and mobile MX intercontinental ballistic missile (ICBM) is designed to be the most lethal and survivable ICBM in the world. The Air Force is developing it to augment the capabilities and survivability of currently deployed ICBMs which, together with submarine launched ballistic missiles and manned strategic bombers, form the triad of U.S. strategic offensive forces.

On June 7, 1979, after considerable debate, President Carter announced his decision to proceed with full-scale development of a 192,000-lb. MX, the largest design proposed. On Sept. 7, he announced plans to deploy MX in the "racetrack" mode: each missile would move among 23 horizontal shelters connected by a closed loop road. The system would have 200 missiles, 200 racetracks, and 4,600 shelters, and could be expanded or contracted in response to changes in the Soviet ICBM force. On Apr. 29 and May 6, Defense Department officials indicated that the basing mode proposal would be modified somewhat, with linear instead of oval roads, different vehicles, smaller shelters, no unmanned dash capability, and mass simulators.

MX has been, and will continue to be, a focal point of congressional debate. Key issues are:

Strategic policy: The accuracy and explosive yield of MX will give it a high capacity for destroying Soviet ICBMs in their hardened silos. Supporters claim this is needed to give the U.S. a military capability substantially equivalent to that of the U.S.S.R., and that a limited counterforce capability enhances deterrence. Opponents argue that we would not strike first, so a counterforce capability is unnecessary and could even lead the Soviets to strike first in a crisis.

Survivability: Many believe the Soviets will soon be able to destroy most fixed-silo U.S. ICBMs in their silos. Indeed, on Aug. 20, 1980, Defense Secretary Harold Brown said that the Soviet potential to threaten the survivability of the U.S. ICBM force " has been realized, or close to it." MX proponents argue that the U.S. must deploy MX to maintain a force of low-vulnerability land-based ICBMs. Opponents say that it would be very difficult for the Soviets to destroy almost all U.S. ICBMs in a coordinated first strike; that after such an attack, the U.S. could still retaliate with its bombers and submarine missiles; and that MX in its currently-envisioned basing mode will be nearly as vulnerable to Soviet attack when it is completed, in 1989, as current U.S. ICBMs are now. Some critics feel that a U.S. response is needed; others disagree.

Alternatives: Over the last decade, the U.S. has considered about 30 modes for basing ICBMs. The Carter Administration held that a land-based ICBM is vital to U.S. security, and that the currently proposed basing mode offers the best combination of survivability, verifiability, affordability, consistency with current and future SALT negotiations, and minimal environmental and social impact. Some critics believe MX and its basing mode are too costly and that deployment will take too long. They urge an interim deployment of Minuteman III in vertical silos and, if required by the Soviet threat, defending ICBMs with antiballistic missiles. Some taking this position feel we should proceed with MX, while others believe that we should deploy ABM to defend existing

ICBMs and deploy new missiles at sea. Another school of thought believes no land-based system is workable: it will cost too much, be deployed too late, require endless expansion if the Soviets add to their ICBM force, and, if the Soviets attack, will draw Soviet missiles to U.S. territory that will create fallout over much of the U.S. These critics argue that we should move our missiles to sea; some favor deploying more Trident submarines, while others advocate the use of much smaller submarines (the shallow underwater mobile, or SUM, missile concept).

Cost: The racetrack system was estimated to cost $33.8 billion in FY80 dollars; cost would increase or decrease if the system is expanded or contracted in response to changes in the Soviet ICBM force. Cost savings in the linear road/loading dock system arise because smaller shelters are used, but are roughly offset by the use of mass simulators.

Potential impact on basing area: The racetrack system was to have been, in the words of one Air Force general, "man's largest project." It would require tens of thousands of workers, 2.7 million tons of cement, and 121 billion gallons of water, significantly affecting its deployment areas. The revised system is expected to reduce the impacts by perhaps 10-20%. Supporters argue that the system is needed for national defense, that adverse effects can be offset, and that the system will have some beneficial consequences for residents of the basing area. Opponents counter that the impacts are so numerous and diverse that many cannot be foreseen or offset, that the system will destroy the way of life of deployment area residents, and that the system, if expanded, would have correspondingly greater consequences.

LEGISLATION

P.L. 96-436, H.R. 7592

Military Construction Appropriations Bill, 1981. Makes appropriations for military construction and family housing for DOD for FY81. Provides funds for MX R&D facilities, design of MX basing facilities, and planning by State and local governments to mitigate MX's impact on the deployment area. Imposes several constraints on the basing mode. Reported to the House (H.Rept. 96-1097) from the Committee on Appropriations June 17, 1980. Passed House, 308-19, June 27. Reported to Senate (S.Rept. 96-931) by Committee on Appropriations, Sept. 9. Passed Senate, as amended, by a 84-3 vote, on Sept. 17, 1980. Reported from conference (H.Rept. 96-1433) Sept. 29. House and Senate agreed to conference report Sept. 30. Signed into law Oct. 13.

P.L. 96-418, H.R. 7301

Military Construction Authorization Act, 1981. Title VIII amends section 608 of P.L. 93-552, the FY75 Military Construction Authorization Act, to extend the Secretary of Defense's authority for assisting communities affected by the Trident submarine base in Bangor, Wash., to communities affected by MX. Introduced Feb. 26, 1980; referred to Committee on Armed Services. The Military Construction Subcommittee approved H.R. 7301, a clean bill, in lieu of H.R. 6493 on May 7. Reported (H.Rept. 96-1009) May 16. Passed House, amended, Sept. 10, by a 337-22 vote. Passed Senate, amended, in lieu of S. 3059, Sept. 16, by 89-3 vote. Reported from conference (H.Rept. 96-1399) Sept. 25, 1980. Senate adopted conference report Sept. 30. House adopted conference report Oct. 1. Signed into law Oct. 10.

P.L. 96-342, H.R. 6974

Department of Defense Authorization Act, 1981. Authorizes appropriations for FY81 for military procurement and for research and development. Introduced Mar. 31, 1980; referred to Committee on Armed Services. Reported to the House (H.Rept. 96-916), with amendment, Apr. 30. Passed the House, amended, on May 21 (338-62). Reported by Senate Armed Services Committee (S.Rept. 96-826), filed June 20. Senate passed, 84-3, as amended, on July 2. Reported from conference (H.Rept. 96-1222 and S.Rept. 96-895) on Aug. 18. The conference bill approves the $1.55 billion requested for MX research and development. It seeks to commit Congress to developing and deploying a 200-missile, 4,600-shelter MX/MPS system as soon as practicable, and calls for the system to reach its initial operational capability by Dec. 31, 1986. The conference report limits the initial phase of construction in the initial deployment area to 2,300 shelters. It provides that "a full system of at least 4,600 protective shelters may be deployed in the initial deployment area" if, after a DOD study of split basing, Congress determines "that adverse cost, military considerations, or other reasons preclude split basing." In their report, the conferees state their recognition that DOD must "fully comply with the provisions of the National Environmental Policy Act." On Aug. 26, the Senate (78-2) and the House (360-49) approved the conference report. The bill was signed into law (P.L. 96-342) on Sept. 8.

P.L. 96-527, H.R. 8105

FY81 DOD appropriations bill. Makes appropriations for the Department of Defense for FY81. Reported to House (H.Rept. 96-1317) from the Committee on Appropriations Sept. 11. The committee recommended reducing the MX R&D appropriation $120 million below the amount requested on grounds that "the budget request for MX was for more funds than can be spent effectively and efficiently in fiscal year 1981." The House accepted this recommendation. On Sept. 16, the House rejected, 141-256, an amendment by Rep. Simon prohibiting the use of funds for R&D on a basing mode for MX until Apr. 1, 1981. Passed House, amended, Sept. 16, by a 351-42 vote. Referred to Senate Appropriations Committee Sept. 18, 1980, and reported to the Senate, Nov. 19 (S.Rept. 96-1020), with a recommendation that the full MX R&D request be appropriated. Passed Senate, amended, by a vote of 73-1, on Nov. 21. Conference report filed in the House (H.Rept. 96-1528) Dec. 4. Conferees agreed to reduce the MX appropriations by $60 million. On Dec. 5, the House and Senate adopted the conference report on 321-36 and 73-1 votes, respectively. Signed into law by the President Dec. 15, 1980.

Medalia, Jonathan E.
IB77080

MLC-022

RAPID DEPLOYMENT FORCES

...to meet the demands of a military emergency...

The feasibility of a rapid deployment force (RDF) had been the subject of Pentagon study for several years before President Carter directed its establishment in October 1979. He referred to the concept again in his State of the Union message in January 1980 when, in response to the Soviet invasion of Afghanistan, the President asserted that the U.S. would use military force if necessary to maintain access to the Persian Gulf.

The impetus provided by Afghanistan served to make the RDF a prominent feature of the FY81 Defense budget and the subsequent Defense Authorization Act of 1981. Funds directly associated with the RDF are in excess of $1.2 billion, and this includes only the costs of major procurement and not indirect expenditures for training and equipping the force. Prominent in this total are funds to build up our capability to transport troops and their equipment over long distances in a hurry.

Personnel requirements are even less defined at this point. The plan is to assemble a force tailored to meet the demands of the emergency. Units already part of the active military forces have been earmarked for assignment to the RDF when actually needed; meanwhile, only the headquarters exists with its commander and immediate staff. The President has also asked for authority to call up a total of 100,000 reserves to provide administrative and logistic support for the combat element.

Although congressional action thus far has centered upon the budget issues, other questions associated with the RDF and its use as an instrument of U.S. foreign policy remain to be settled: Will it be a deterrent force or will it be expected to make a forced entry into a crisis area, with or without the cooperation of a regime in the area? Is the force likely to be employed unilaterally or in concert with one or more of our major allies?

The answers to these and related questions will help determine the ultimate size of the RDF and the requisite quality and quantity of its equipment. Another important consideration remaining for the Congress is the timeframe for building the force; it will doubtless be necessary to balance the need for short-term acquisitions that will satisfy interim needs against the more permanent weapons and equipment requirements that entail longer procurement cycles.

Another unresolved issue concerns existing political commitments and limited military resources. The question is whether this country can expect to build a credible intervention force -- even under the flexible call-up concept -- and still satisfy long-standing guarantees to Europe and the Far East.

The Congress is also aware that many critics question the overall efficacy of a plan that is based upon calling together disparate units from scattered locations and transporting them to distant trouble spots under severe time constraints. They point out that the most likely spot at present is the Perisan Gulf, where the Soviet Union has heavy troop and supply concentrations comparatively nearby.

Whatever impetus the RDF may have gained from its connection with the reaction to the Afghanistan invasion, it is fairly certain that plans to build the force will now go forward even though its actual size, configuration, and equipment needs are uncertain. Perhaps more difficult to resolve is the matter of how and when the RDF will be employed.

LEGISLATION

P.L. 96-342, H.R. 6974

DOD Appropriation Authorization Act, 1981. Authorizes appropriations for FY81 for various defense actions, including development of the C-X cargo aircraft and the purchase of eight SL-7 cargo ships. Introduced Mar. 31, 1980; referred to the House Committee on Armed Services. Reported to the House (H.R. 96-916) Apr. 30, 1980. Passed House, as amended, by a vote of 338-62 May 21. Referred to the Senate Committee on Armed Services May 28. Reported to the Senate (S.Rept. 96-826) June 20. Passed Senate, as amended, by a vote of 84-3. Conference report filed in the Senate (S.Rept. 96-895) Aug. 13. Conference report filed in the House (H.Rept. 96-1222) Aug. 18. House agreed to the conference report by a vote of 360-49, and Senate agreed by a vote of 78-2 Aug. 26. Signed into law (P.L. 96-342) Sept. 8, 1980.

P.L. 96-527, H.R. 8105

Department of Defense Appropriation Act, 1981. Contains $318 million for the maritime pre-positioning ships, of which not were more than $33 million is for advanced procurement of the T-AKX, anticipating the first buy in FY82, a year's delay. The remainder ($285 million) is for the procurement, charter, and/or conversion of existing ships of the U.S.-flag merchant marine. The conference report noted that this was a most timely response to the needs of the RDF. The report also included a requirement for the Navy to notify the Appropriations Committees of the results of Navy analyses of the possible condidates for purchases/charter and conversion prior to obligation of FY81 funds. The report specified that unless the Navy look to the "advantages" of ships built in U.S. shipyards. The report also provided for $35 million for the C-X cargo aircraft program. This was not an agreement to start development of a new airlifter; it was specified that the funds be used to examine all alternatives, provided that the studies required by the FY81 Authorization Act substantiate the need for additional airlift capabilities. H.R. 8105 was reported to the House (H.Rept. 96-1317) Sept. 11, 1980, from the Committee on Appropriations. Passed the House, amended, Sept. 16; referred to the Senate Committee on Appropriations. Reported to the Senate (S.Rept. 96-1020) Nov. 19. Passed the Senate, amended, Nov. 21. Conference report filed in the House (H.Rept. 96-1528) Dec. 4. House agreed, amending Senate amendments with amendments. Senate agreed Dec. 5. Signed into law by the President Dec. 15, 1980.

Wootten, James
IB80027

MLC-023

SALT II: AN UNCERTAIN FUTURE

...ratification delayed...

The Reagan presidential victory and the new Republican majority in the Senate signal a dubious future for the SALT II treaty in its present form. Reagan has repeatedly stated that SALT II, as is, is unacceptable and will not be ratified by the U.S. He stands for a renegotiation of the treaty. The new Senate leadership -- notably incoming chairman of the Senate Foreign Relations Committee, Senator Charles Percy -- has supported Reagan's position.

The second round of the Strategic Arms Limitation Talks (SALT II) came to an end on June 18, 1979, with the signing of a treaty by President Carter and Soviet President Brezhnev, ending 7 years of negotiations. From the start, the treaty was not well received in the Senate. It was favorably reported out of the Foreign Relations Committee with numerous amendments by a 9-to-8 vote and faced a difficult floor debate. But the ratification process was indefinitely delayed by the Soviet invasion of Afghanistan which caused President Carter to request that the Senate not debate the treaty until Soviet troops were withdrawn from Afghanistan. The treaty remains on the Senate calendar and it is still unknown how the new Senate and administration will deal with it.

Although Reagan's opinion of the SALT II treaty has been made very clear, the specifics of his policy are as yet uncertain. For example, it is not known whether he will request the withdrawal of the treaty from the Senate, whether he will continue the U.S. practice of observing the terms of SALT II pending ratification of a strategic arms limitation treaty, when he would attempt a renegotiation of the treaty with the Soviets, and, finally, what form the new treaty would take.

The Soviet attitude towards Reagan's position on SALT is problematic. They stand for immediate ratification of SALT II and have thus far denied the possibility of renegotiating the treaty. Also, while in practice the Soviets have been observing the terms of the SALT II treaty, they have refused to officially commit themselves to this position, leaving open the possibility of departing from the specifics of the agreement at any time.

LEGISLATION

Executive Y, 96th Congress, 1st session

The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms and the Protocol Treaty Thereto. Reported out of committee; placed on the calendar in the Senate.

Freedman, Judith A.

MLC-024

TRIDENT PROGRAM

...can travel faster, run quieter, and stay at sea longer...

Nuclear-powered ballistic missile firing submarines (SSBNs) are generally seen as the least vulnerable U.S. strategic offensive weapon system because it is assumed that the Soviets could not destroy most U.S. SSBNs simultaneously. Accordingly, SSBNs are believed to reduce any incentive for either nation to launch a nuclear first strike.

The current Trident program includes procurement of 14 Trident submarines; bases for them in Bangor, Washington, and Kings Bay, Georgia; Trident I missiles and associated warheads; development of the Trident II missile and associated warheads; and development of the Evader maneuvering reentry vehicle (MaRV). Trident I will be backfitted into 12 Poseidon SSBNs. A follow-on Trident II missile may be built later. The submarine will replace Polaris and Poseidon SSBNs, which were first commissioned in 1959 and 1963, respectively. Compared to these earlier boats, Tridents are much larger, travel faster, run quieter, and stay at sea longer. They will carry 24 Trident I missiles of 4,260 nm range instead of 16 missiles of 2500 nm range. Increased missile range will make SSBNs far harder to find by increasing sixteenfold the ocean area in which they can operate. Trident II, for which the Navy hopes to continue concept definition in FY81, is anticipated to have a 4000 nm range and improved accuracy. Both Trident I and II will carry multiple independently targetable reentry vehicles, enabling one missile to attack several targets, and may carry MaRVs.

Advocates argue that the Trident submarine is needed to replace its aging predecessors; that a large submarine will carry more missiles, increasing cost-effectiveness; and that deployment of Trident II, which only the Trident submarine can accommodate, will increase the number and accuracy of U.S. reentry vehicles, thus improving the U.S. strategic posture. Opponents argue that the Trident submarine is too large and too expensive. Smaller SSBNs, they claim, could be dispersed more widely, and could be built in larger numbers for the same program cost. The projected accuracy of the Trident II missile, they believe, would make it a destabilizing first-strike weapon.

On July 15, 1980, the U.S. agreed to sell Britain about 100 Trident I missiles and related equipment, which will be deployed on four or five British-built SSBNs. This force will cost about $11.5 billion and is to be deployed by the early 1990s. It will replace the four Resolution Polaris-carrying SSBNs that Britain now deploys.

The program has experienced delays and cost increases. In 1973, plans called for the first Trident to become operational in 1978; deployment of that submarine is now scheduled for early 1982. The Trident program was projected in 1974 to cost $12,431.1 million. Because of such factors as inflation, increased numbers of submarines and missiles, engineering changes, and cost overruns, total program cost is estimated at $28,751 million in current dollars as of Sept. 30, 1980. In the quarter ending on that date, program cost decreased by $10.1 million. These costs exclude the program to backfit Trident I missiles onto Poseidon submarines, estimated at $4,105.4 million, as of Sept. 30, 1980. The ultimate size and, thus, cost of the Trident program are undetermined at present. The General Accounting Office estimated in April 1978 that a 21-ship Trident program could cost more than $37 billion, and that a 28-ship program could exceed $50 billion.

Trident issues facing the 96th Congress, then, included the size of the program, whether to proceed with the Trident II missile, and whether to develop and build a less-expensive missile-carrying submarine instead of Trident in the late 1980s or beyond.

LEGISLATION

P.L. 96-342, H.R. 6974

Department of Defense Authorization Act, 1981. The Administration requested $696.9 million for procurement of 72 Trident I missiles, $172.7 million for advanced procurement of these missiles, $1,050.2 million for the ninth Trident submarine, and $40 million for advanced procurement of the tenth. Both Armed Services Committees recommended approving these items as requested (H.Rept. 96-916, S.Rept. 96-826). An additional $36.358 million was requested for the Trident II missile program; of this, the House Armed Services Committee recommended using $16 million for the Improved Accuracy Program for the Trident I missile and deleting $20.358 million from development of Trident II, arguing that the $8 billion cost of that missile's development program would constrain other Navy programs. The Senate Armed Services Committee, however, recommended adding $61 million to the Trident II development request to protect the ability to deploy that missile initially in 1989. The Committee also requested that the Secretary of Defense submit, by Jan. 31, 1981, a plan for "the fullest possible competition for the Trident II." The House passed H.R. 6974, 338-62, on May 21; the Senate passed it, 84-3, on July 2. While the measure was amended in each House, none of the amendments dealt with Trident. The bill was reported from conference (H.Rept. 96-1222/S.Rept. 96-895) on Aug. 18. The conferees recommended deleting all funding for SSBN-X and authorizing $65.0 million for Trident II. The House approved the conference report on Aug. 26, 360-49; the Senate approved it on the same day, 78-2. The bill was signed into law (P.L. 96-342) on Sept. 8, 1980.

P.L. 96-527, H.R. 8105

FY81 DOD appropriations bill. Makes appropriations for the Department of Defense for FY81. Reported to House (H.Rept. 96-1317) from the Committee on Appropriations Sept. 17. The committee recommended appropriating the amount requested for FY81 for Trident I, Trident II, and the Trident submarine. Passed House, amended, Sept. 16, by a 351-42 vote; referred to Senate Appropriations Committee Sept. 18, 1980. Reported to the Senate Nov. 19 (S.Rept. 96-1020). The committee recommended appropriating the amounts requested for FY81 for Trident I and the Trident submarine, and $65 million, the amount authorized, for Trident II. The bill passed the Senate, amended, on Nov. 21, by a 73-1 vote. Conference held Dec. 2-3. Conference report filed in the House (H.Rept. 96-1528); amendments agreed to by Senate and House. Signed into law (P.L. 96-527) Dec. 15, 1980.

Medalia, Jonathan E.
IB73001

MLC-025

V/STOL AIRCRAFT DEVELOPMENT

...extending fleet aviation and ground support capabilities...

The Navy has announced a long-range plan to develop fixed-wing aircraft capable of vertical and short take-off and landing (V/STOL), which could supplement conventional (CTOL) aircraft in sea-based aviation. The Marines are already operating the British-built Harrier V/STOL and are developing a U.S.-made Advanced Harrier. The Soviets have deployed a vertical take-off and landing (VTOL) aircraft aboard their Kiev and Minsk carrier/cruisers. The cost and vulnerability of aircraft carriers and airbases, the operational experience of the Harrier, and Soviet deployment of vertical-flight aircraft have stimulated interest in V/STOLs as a means of extending U.S. fleet aviation to ships other than the Navy's current carriers; however, budgetary constraints and competition for funds threatens the future of U.S. V/STOL efforts.

The major V/STOL issue before the 97th Congress concerns the Marine Corps AV-8B Advanced Harrier program, begun in 1976 as a U.S. version of the AV-8A Harrier with twice the range/payload capability of the British V/STOL. Two AV-8B prototypes have been flight-tested for possible deployment in the mid-1980s.

Although Congress has strongly supported the AV-8B, the Carter Administration opposed this technically successful program for budgetary reasons. The future of U.S. V/STOL aviation in the near term depends largely on decisions taken in 1981 regarding production of the AV-8B Advanced Harrier in the early 1980s. As the only American V/STOL aircraft currently ready to go into production, the Marine Corps AV-8B Close Air Support (CAS) attack plane is generally viewed as critical to this field, with major implications for both fleet aviation and ground forces CAS operations.

LEGISLATION

P.L. 96-107, H.R. 4040/S. 428

Department of Defense Authorization Act, 1980. Provided $180 million for the AV-8B program, $5 million for development of the AV-8B+ aircraft, and $3 million for various V/STOL-related Navy programs. The bill was signed into law Nov. 9, 1979.

P.L. 96-342, H.R. 6974

Department of Defense Authorization Act, 1981. As passed by the House May 21, 1980, authorizes $333 million for the AV-8B, but contains no funding for Navy V/STOL programs. The Senate version, passed on July 2, 1980, authorizes similar funding for the AV-8B, and includes $8 million for Navy V/STOL programs and $5 million for more AV-8B+ work. House/Senate conferees agreed to $10 million for Navy V/STOL programs, with $5 million earmarked for AV-8B+ work. H.R. 6974 was passed by Congress on Aug. 26 and signed into law (P.L. 96-342) Sept. 8, 1980.

P.L. 96-527, H.R. 8105

Department of Defense Appropriation Act, 1981. As passed by the House Sept. 16, 1980, provides $333 million for the AV-8B, but contains no funding for Navy V/STOL programs or AV-8B+ work. Reported to the House (H.Rept. 96-1317) from the Committee on Appropriations Sept. 11, 1980. Passed House, amended, Sept. 16; referred to the Senate Committee on Appropriations. Reported to Senate, with amendment, Nov. 19 (S.Rept. 96-1020). Passed Senate, amended, Nov. 21. Conference held Dec. 2-3. Conference report filed in the House (H.Rept. 96-1528) Dec. 4. House agreed to conference report, and Senate amendments with amendments. Senate agreed Dec. 5. Signed into law Dec. 15, 1980.

Cooper, Bert H.
IB78020

ECONOMIC CONDITIONS, GENERAL

MLC-026

THE PRESIDENT'S ANTI-INFLATION PROGRAM

...voluntary wage and price restraint...

In the face of accelerating inflation, the Carter Administration over two years ago unveiled a formal anti-inflation strategy designed to (1) encourage voluntary wage-price restraint within the private sector, (2) reduce the inflationary effects of Government spending, and (3) reduce the cost raising effects of Government regulations. The President requested that labor and industry adhere to a set of voluntary wage-price guidelines (or standards) designed to achieve, along with the effects of other measures, a marked deceleration in the rate of inflation, which was increasing at an annual rate of more than 9% at the time. Acknowledging that the public sector has been a major contributing factor to price inflation as well, the President, in his announcement of the program on Oct. 24, 1978 pledged to put a tight rein on the growth of Government spending relative to GNP, to reduce the Federal deficit, and to hold down the mounting economic costs of regulation.

In choosing this course of action, the President rejected two other anti-inflation strategies which he maintained would be damaging to the economy. They included (1) the application of mandatory controls on wages and prices, and (2) wringing inflation out of the economy by resorting to extreme measures of monetary and fiscal restraint which could push the economy into deep recession, and result in a sharp rise in unemployment.

On Sept. 28, 1979, President Carter announced the continuation of the Government voluntary anti-inflation program instituted on Oct. 24, 1978. In an effort to encourage continued support for the program from labor and business, the President also established an 18-member Pay Advisory Committee (6 members each from labor, business, and the Administration), and a 5-member Price Advisory Committee (composed of only public members). The pay committee is responsible for setting new (or revised) guideline standards for wages for the new program year. It is also responsible for deciding whether individual pay settlements violate the guidelines. The Price Advisory Committee assists in making revisions in the price guidelines (if needed), however, it does not pass judgement on industry compliance with these standards. The Council on Wage and Price Stability, which administers the pay-price stabilization program, monitors industry compliance with the price standards. None of these changes in the program required legislative approval or action.

In early 1980, the Carter Administration made no major modifications in the original guidelines for price increases, but it did adopt a new pay standard recommended by the Pay Advisory Committee which would allow annual compensation increases to range between 7.5% and 9.5% during the program year (Oct. 1979 to Oct. 1980). (The Committee recommendations also included provisions that establish criteria for pay adjustments below and above the new pay standard. Adjustments above the standard would be subject to Government review.) Settlements or wage determinations in normal circumstances should be expected to average about the midpoint of the range (8.5%).

Because pay increases lagged considerably behind the sharp gains in prices during 1979, there was widespread concern in policy circles that workers might strive for much higher pay gains than those specified in the proposed pay standard to reflect the effects of past inflation and the equalization of nonunion with union wages.

Largely due to sharp increases in energy and housing costs (including financial costs), consumer prices in the early months of 1980 soared to an annual rate of more than 18% -- up from a 13.7% rate in the final quarter of 1979. As a result of this ominous rise in the general price level, the Administration and the Federal Reserve Board came under intense public pressure to take more drastic steps to combat inflation. In fact, a number of respected economists, and financial analysts from academic, industrial, and financial circles reluctantly concluded that the Government should immediately place mandatory controls on wages and prices to dampen inflationary expectations which they asserted were a major contributing factor to accelerating inflation at the time. Following several weeks of deliberations, President Carter, on March 14, announced a revised anti-inflation strategy. Despite growing public interest in mandatory wage and price controls, the President reaffirmed his long-standing opposition to controls. The Government's intensified anti-inflation program consisted of the following five major components.

1) *Reduction in the Federal Budget*: Major revisions were made in the Administration's original budget proposals for FY80 and FY81. Substantial spending reductions were proposed to achieve a balanced budget by FY81. The Carter Administration also requested authority to speed up collections of revenues from taxpayers and withhold Federal income taxes on interest and dividend payments earned by savers and investors. 2) *Additional Restraints on Credit*: Under the powers granted him by the Credit Control Act of 1969, the President authorized the Federal Reserve Board to impose new restraints on the growth of credit on a limited and targeted basis. The Federal Reserve also instituted a voluntary program to restrain excessive growth in loans by large banks and other lenders. In taking these and other anti-inflation initiatives, the Fed in its policy announcement on March 14 emphasized that these actions are supplemental to traditional tools of monetary policy and that the thrust of its restrictive monetary actions instituted in October of last year and February of this year had not changed. [Because of a marked reduction in consumer and business demand for credit and the sharp downturn in economic activity, the Federal Reserve in May relaxed some of its controls on credit instituted on March 14, 1980. Also, on July 3, 1980, the Federal Reserve announced a phaseout of the other remaining controls to be completed by the end of that same month. In taking these actions, the Fed made it clear that it still maintained its commitment to controlling the growth of money and credit within the target ranges it established in February of this year in its drive to moderate inflationary pressures.] 3) *Voluntary Wage and Price Standards*: President Carter reaffirmed his support for the Government's voluntary wage and price guidelines program in effect since October 1978. He also requested that Congress sharply expand the price and pay monitoring activities of the Council on Wage and Price Stability and extend the life of the Council through Sept. 20, 1981. 4) *Energy Conservation*: In addition to urging Congress to complete action on the windfall profits tax, the Energy Security Corporation, the Energy Mobilization Board, and coal conversion legislation, the President announced that he would impose a conservation fee of $4.62 a barrel on imported oil, to be applied solely on gasoline at about 10 cent a gallon. The Secretary of Energy was also instructed to develop an intensified national energy conservation plan, involving the participation of every level of Government, business, and labor. 5) *Long-term Structural Changes*: The Carter Administration would also intensify its efforts to increase productivity, savings, and research and development which over the longer term could contribute to the lessening of inflationary pressures. Such efforts would include reducing the adverse economic effects of regulation, the partial or extensive deregulation of such industries as banking, trucking, railroads and communications, the gradual lifting of interest ceilings on savings, more extensive study of the nation's productivity problem, and the recommendation of tax measures to spur productivity growth once the task of balancing the budget and assuring overall fiscal disclipine is achieved.

Legislative Developments: On May 10, 1979, Congress approved legislation extending the life of the Council on Wage and Price Stability for one year to Sept. 30, 1980, instead of the 2 year extension originally requested by the President (P.L. 96-10). It also authorized an increase in the Council's staff from 39 to 233.

As part of his anti-inflation plan announced March 14, 1980, the President requested that funding for the

Council on Wage and Price Stability be tripled to $25 million for FY81 (H.R. 2283 and S. 2352), to allow the Council to increase its staff from its current level of 233 persons to 637 in FY81 and enable it to intensify its monitoring efforts. Congress rejected this proposal and passed legislation signed by the President on Dec. 8, 1980 -- P.L. 96-508, which extended the life of the Council through Sept. 30, 1981. The Council was given $9.6 million to continue operating, but it is not permitted to initiate any new programs or reactivate old ones that were not appropriated for in FY80.

In carrying out his pledge to reduce Federal spending to combat inflation, on Mar. 31, 1980 President Carter presented his revised budget proposals for FY80 and FY81 to Congress. The original proposal submitted in January 1980 estimated budget deficits of $40 billion in FY80 and $16 billion in FY81. The revised budget proposes a slightly lower deficit for FY80 -- $36.5 billion, and a budget surplus of $16.5 billion in FY81, the first surplus in 12 years.

Congress approved the First Budget Resolution (H.Con.Res. 307) on June 12, 1980. The agreement called for $613.6 billion in outlays for FY81 and projects a surplus of $200 million, although most expect the budget to be thrown into deficit by the recession. Largely because of the combined effects of inflation and recession, Congress in its final budget resolution, passed on Nov. 20, 1980, agreed to a total outlay ceiling of $632.4 billion and a revenue floor of $605 billion for FY81. This would mean a budget deficit of $27.4 billion. However, because of the uncertain economic outlook, there was widespread concern the deficit could exceed this target.

The Administration has given its strong support to legislation that would deregulate certain aspects of surface transportation -- particularly trucking and railroads -- to increase price competition among carriers. On July 1, 1980, President Carter signed a trucking deregulation bill (S. 2245) into law as P.L. 96-296. The new law eases requirements for entry into the business, partially eliminates antitrust immunity for collective ratemaking, and gives truckers some freedom to set rates without ICC approval. A railroad deregulation bill was signed into law by President Carter on Oct. 14, 1980 (P.L. 96-448). The Staggers Rail Act of 1980 significantly changes the framework within which the railroads can raise and lower rates.

Legislation to contain hospital costs has been considered in both the House and Senate. On Nov. 15, 1979 the House, by a large margin, rejected President Carter's cost containment bill (H.R. 2626) and adopted a substitute that merely created a national study commission on hospital costs and authorized some funds for State cost control programs. Though the Senate passed a hospital cost bill in the 95th Congress, it has taken no action to date on the Administration bill (S. 570), reported out by the Labor and Human Resources Committee. In his Mar. 14, 1980 economic message to the Nation, the President again urged Congressional enactment of his cost containment proposal which is considered a major component of the Administration's recently revised anti-inflation program.

Despite growing public support for mandatory wage price controls in the early months of this year, the President made it quite clear in his March 14 address that controls were out of the question. Several bills were introduced in the House and Senate which would have given the President the authority to impose mandatory controls (e.g., H.R. 786 -- Weiss, et al. and S. 1022 -- McGovern); however none have been given active consideration. Furthermore, in an effort to dampen speculation about controls, on March 3 of this year House Speaker O'Neill stated that "Congress would not approve mandatory wage-price controls."

Finally,President Carter did not impose his conservation fee on imported oil referred to above, because a Federal District Court Judge in May of this year ruled that the fee was illegal and enjoined the Administration from carrying out this program.

Knight, Edward

EDUCATION

MLC-027

EDUCATION: LEGISLATION AND ISSUES DURING THE 96TH CONGRESS

...broad range of issues...

A milestone in Federal education legislation was reached during the first session of the 96th Congress with the establishment of the Department of Education through the passage of P.L. 96-88. Several other areas of activity in education also received attention during the 96th Congress. They were in the form of reauthorization, enactment of new legislation, appropriation of funds, and implementation of existing legislation.

Reauthorization: Three major pieces of education-related legislation were reauthorized by the 96th Congress: the Higher Education Act of 1965 (HEA), the authority for the National Institute of Education (NIE), and the authority for the National Foundation on the Arts and Humanities (NFAH).

P.L. 96-374 reauthorized the HEA. The HEA consists of 12 titles, constituting the source of Federal assistance for a broad range of programs for postsecondary education institutions and students in this country. Issues of concern regarding the HEA included consolidation, coordination, and simplification of student aid programs; fraud, abuse, and waste; repayment of existing student loans; broadening of student eligibility for loans and grants; aid for traditionally black institutions; and reduction in Federal costs for student aid (FY80 appropriations were approximately $5 billion for the HEA). (See IB79008: Higher Education Act of 1965: Reauthorization by the 96th Congress.)

P.L. 96-374 also reauthorized the NIE. The NIE was established in 1972 to be the Federal agency primarily responsible for educational research and development, and dissemination of educational information. Issues involved the utilitarian value of the NIE's work in improving educational practice in this country, the lack of concentration of Federal educational research activities in the NIE, the continued support for the 17 educational laboratories and centers located throughout the Nation, and the operation of the National Assessment of Educational Progress.

P.L. 96-496 reauthorized the NFAH. To promote progress and scholarship in the humanities and the arts in the United States, the NFAH was established as an independent Federal agency in 1965. The Foundation encourages and supports programs through grants to States and individuals from the NFAH's two component parts, the National Endowment for the Arts and the National Endowment for the Humanities. The Institute of Museum Services (IMS) was established within the former Department of Health, Education, and Welfare (HEW) by the Arts, Humanities, and Cultural Affairs Act of 1976, an Act which also extended the authorization of the NFAH. Reauthorization issues included support for local arts agencies, authority to make loans as well as grants, and a requirement to support programs promoting "cultural diversity."

New Legislation: The Department of Education Organization Act, P.L. 96-88, was signed into law by President Carter Oct. 17, 1979. On Dec. 6, 1979, Shirley M. Hufstedler was sworn into office as the first Secretary of Education. The new department began official operations in May 1980. Support for the new department came from a variety of education interest groups and was a 1976 campaign promise of President Carter.

The legislation provided for the formation of a separate education department with the intent of providing greater visibility and status for the Federal interest in education as well as greater efficiency and economy in the administration of Federal education programs. One aspect of the goal for increased efficiency and economy was reflected in the requirement that personnel strength of the new department be reduced by 500 by the end of the first year of operation.

The nucleus of the new department was the former Education Division of HEW. Other Federal activities that were merged into the new department included the overseas schools for military dependents currently operated by the Department of Defense, rehabilitation programs and the Office for Civil Rights from HEW, and selected student aid, housing, and training programs from several other agencies. The remainder of HEW was renamed by the legislation as the Department of Health and Human Services. (See IB78068: Education: Proposals for a Cabinet-Level Department.)

On Jan. 10, 1980, President Carter announced a major new education and employment initiative designed to prepare the Nation's youth for the labor market of the 1980s. As proposed, the Youth Act of 1980 would cost $2 billion per year when fully implemented in FY82, and would focus on the employment problems of particularly disadvantaged minority youth, according to the Carter Administration. The programs would be administered by the Departments of Education and Labor, with half the proposed funds to be spent on education for assisting youth currently in school. Approximately 1 million students would be served in junior and senior high schools, concentrating on basic education, vocational skill training, and participation in work experience. During the 96th Congress, the House passed an amended version of the Youth Act, but the Senate did not, thereby ending the Carter initiative. (See IB80045: Employment and Education: Youth Act of 1980.)

New legislation was proposed regarding standardized testing. Several bills were introduced; in general they would have required that test sponsors and administrators provide information about how their tests are prepared and scored and how the results will be used. Some legislation would have required that copies of the tests, along with the correct answers, be released shortly after they are given. The objectives would be to ensure the careful design of tests, the fair and equitable treatment of examinees, and the proper use of results. Opponents argued that the required information is already provided for the most part, that the publication of actual questions and answers would greatly increase the costs of the tests, and that the proposals would bring unwarranted Federal intrusion into State licensing practices and State and private educational institutions. (See IB79116: Testing: Regulation of Educational and Occupational Exams.)

Appropriations: In recent years, debate seems to have increased over the level of appropriations for the P.L. 874 impact aid program for school districts in federally affected areas. (Federally affected areas are defined by law to include military bases, offices of the Federal Government, Federal Indian lands, public low-rent housing projects, and domestic property owned by foreign governments and international organizations.) Despite revision of the authorizing legislation in 1978, congressional attention continued to center on the payments for children whose parents *either* live *or* work on Federal property. President Carter's revised FY81 budget request also sought to "limit Federal responsibility to districts most seriously burdened by non-taxable lands defined as Federal property," and asked for a reduction of more than 55% in funding for school maintenance and operation. (See IB79018: Education: Impact Aid FY81 Funding Levels and Priorities.)

The level of appropriations for the education of handicapped children also received attention. The Education for All Handicapped Children Act of 1975 (P.L. 94-142) requires each State to make available a "free appropriate public education" for all handicapped children by 1980 and authorizes increased Federal funds to implement this requirement. Appropriations for the education of the handicapped program have increased significantly in recent years; however, the legislation has not been fully funded for FY79, FY80, or FY81. The impact aid program and Title I of the Elementary and Secondary Education Act of 1965 -- the other major Federal aid programs for elementary and secondary education -- have not been fully funded in recent years, but do not require the substantial increase in State services mandated by the education of the handicapped legislation. (See IB78040: Education of the Handicapped.)

Implementation and Regulation: The 95th Congress reauthorized major legislation for elementary and secondary education, basic educational skills, education for the handicapped, adult education, career education, higher education, Indian education, library services, and control of Federal paperwork requirements, as well as the previously mentioned impact aid program. The implementation and oversight of this legislation was a concern of the 96th Congress. Numerous regulations were reviewed by the Congress and several were disapproved through various concurrent resolutions. The paperwork requirements were addressed by P.L. 96-511, the Paperwork Reduction Act of 1980. Oversight hearings in anticipation of the reauthorization of the Federal vocational education program were begun by the House Committee on Education and Labor in September 1980.

The issue of *consolidating Federal assistance programs* was raised during the 96th Congress. Most Federal elementary and secondary education programs have tended to be categorical, with funds allocated for specific purposes on the basis of special populations, activities, and federally established priorities. Advocates for consolidated funding have sought more general, broad-purpose funding mechanisms. They want to provide Federal funds in a manner consistent with local priorities. A grant consolidation proposal for all Federal grant-in-aid programs (S. 878, the Federal Assistance Reform Act of 1980) passed the Senate during the 96th Congress, but no action was taken by the House. A consolidation demonstration project limited to certain education programs was proposed by the Senate in its version of the Education Amendments of 1980 (P.L. 96-374), but the provision was dropped during conference on the bill. (See IB 79021: Grant Consolidation of Education Programs.)

Controversy over *bilingual education* (defined as instruction given through two languages, one of which is English) occurred during the 96th Congress. At issue were the Department of Education's proposed "Lau regulations" requiring State and local educational agencies to provide appropriate instruction for approximately 3.5 million students whose primary language is not English and who are limited in English proficiency. (In the 1974 *Lau* v. *Nichols* case, the U.S. Supreme Court held that title VI of the Civil Rights Act of 1964 prevents school districts from withholding educational services to students solely because of lack of English language proficiency.) Although some individuals claimed the regulations did not go far enough to ensure appropriate instruction, others have charged that they represented unwarranted Federal intervention into areas of education heretofore reserved exclusively for State and local control. The House accepted an amendment to the Department of Education Appropriations Act, 1981 (H.R. 7998) by Representative Ashbrook restricting the Department of Education in its use of 1981 funds for the enforcement of the proposed regulations, but no action was taken by the Senate on this bill. However, the Senate accepted an amendment by Senator Chiles prohibiting the issue of final Lau regulations prior to June 1, 1981; this amendment was accepted by the House in the Continuing Appropriations Act, 1981 (P.L. 96-369), and similar language appears in the Further Continuing Appropriations Resolution, 1981 (P.L. 96-536). (See IB 80093: Bilingual Education: Federal Intervention or Equal Access?)

The question of *school desegregation* for elementary and secondary children by mandatory busing or other methods was addressed by the 96th Congress on several occasions. (See the recently completed CRS analysis of one aspect of desegregation, entitled "Metropolitan School Desegregation" by K. Forbis Jordan and Charles E. Dale.) The two major legislative proposals considered were (1) H.J.Res. 74, proposing a constitutional amendment to prohibt mandatory school busing (which failed to receive the requisite two-thirds vote in the House on July 24, 1979), and (2) a rider to the Departments of State, Justice and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584) prohibiting the Department of Justice from bringing action to require, directly or indirectly, the busing of any student to a school other than the one nearest the student's home (which was vetoed by President Carter on Dec. 13, 1980). It should be noted that the original version of the

Further Continuing Appropriations Resolution, 1981 (H.J.Res. 637) contained the anti-busing prohibition on the Department of Justice when passed by the House (Dec. 3, 1980), but the prohibition was removed on the Senate floor (Dec. 10, 1980) and was not retained in the conference on the bill. The 96th Congress deleted the anti-busing prohibition in the final version of the Further Continuing Appropriations Resolution, 1981 (H.J.Res. 644), which was passed by both Houses on Dec. 15, 1981, and was signed by President Carter as P.L. 96-536.

Three *major studies* are currently underway that should provide guidance on some important educational issues. In 1976, the National Institute of Education was required by legislation to provide a thorough evaluation and study of *vocational education* programs, with a final report to the President and the Congress due no later than Sept. 30, 1981. The Education Amendments of 1978 required the President to establish a Commission on the Review of the Federal *Impact Aid Program*, with a final report to the President and the Congress due no later than Sept. 1, 1981. In 1978, the Congress also mandated a 3-year study of *school finance*, with a final report containing results and recommendations to the President and the Congress due no later than Dec. 31, 1982. (See IB80220: Elementary and Secondary School Finance: Congressionally Mandated Study.)

Various additional issues are likely to emerge in the 1980s concerning public and Federal interest in education. These issues include the extent of education to be provided at public expense; the relative share of the education fiscal burden to be borne by local, State, and Federal revenue sources; public funding for nonpublic schools; equal access to education for all students; bilingual education; enforcement role of the civil rights agency within the Department of Education; national performance standards; focus of Federal programs; declining rate of growth in resources; and competition for funds among various social service programs. (See IB79263: Education: Challenges in the 1980s.)

LEGISLATION

P.L. 96-46, H.R. 4591

Makes technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978. Introduced June 22, 1979; referred to Committee on Education and Labor. Reported favorably by committee (H.Rept. 96-338), and passed by the House July 23, 1979. Measure passed by the Senate without amendment July 24, 1979. Signed into law by the President Aug. 6, 1979.

P.L. 96-49, H.R. 4476

Higher Education Technical Amendments of 1979. Provides for a 1-year extension of HEA and a 1-year extension of the NIE. Introduced June 5, 1979; referred to Committee on Education and Labor. Reported favorably by the committee (H.Rept. 96-318, Part I). Referred to Committee on Appropriations; reported by committee (H.Rept. 96-318, Part II), and passed by the House July 31, 1979. Measure passed by the Senate with amendment July 31, 1979. House agreed to measure as amended Aug. 1, 1979. Signed into law by the President Aug. 13, 1979.

P.L. 96-56, H.R. 2807

Amends the Bankruptcy Act to prohibit the discharge of certain Federal loans to postsecondary students. H.R. 2807 introduced Mar. 13, 1979; referred to Committee on Judiciary. Passed House May 7, 1979. Received in the Senate and referred to Committee on Judiciary May 8, 1979. Reported, amended (S.Rept. 96-230), and passed Senate, amended, July 11, 1979. House agreed to Senate amendments Aug. 1, 1979. Signed into law by the President Aug. 14, 1979.

P.L. 96-88, S. 210

Department of Education Organization Act. Establishes a separate department of education with a secretary of cabinet rank. S. 210 introduced Jan. 24, 1979; referred to Committee on Governmental Affairs. Reported favorably by the committee (S.Rept. 96-49) and passed by the Senate Apr. 30, 1979. H.R. 2444 introduced Feb. 27, 1979; referred to Committee on Government Operations. Reported favorably by the committee (H.Rept. 96-143, and S. 210, as amended; passed by the House July 11, 1979 in lieu of H.R. 2444. Conference report was filed (S.Rept. 96-326, H.Rept. 96-459); Senate agreed to report Sept. 24, and House agreed to report Sept. 27, 1979. Signed into law by the President Oct. 17, 1979. (Shirley M. Hufstedler was nominated to be the first Secretary of Education. She was confirmed by the Senate Nov. 30, 1979, and sworn into office Dec. 6, 1979.)

P.L. 96-374, H.R. 5192

Educational Amendments of 1980. Amends most programs of the HEA and extends authorization through FY85. Amends and extends the authorization of the NIE through FY85. H.R. 5192 introduced Sept. 6, 1979; referred to Committee on Education and Labor. Reported favorably by committee (H.Rept. 96-520), and passed by the House, amended, Nov. 7, 1979. S. 1839 introduced Sept. 28, 1979; referred to Committee on Labor and Human Resourcss. Reported favorably by committee, amended (S.Rept. 96-733), May 15, 1980. The language of S. 1839, amended, was agreed to by the Senate June 24, 1980, and inserted in lieu of the text of H.R. 5192. H.R. 5192 was passed by the Senate as amended, June 24, 1980. Conference report (H.Rept. 96-1251) was agreed to by the House Aug. 28, 1980. Senate disagreed to conference report Sept. 4, 1980. Second conference report (H.Rept. 96-1337) was agreed to by the House Sept. 18, 1980. Senate agreed to second conference report, Sept. 25, 1980. Signed into law by the President Oct. 3, 1980.

P.L. 96-496, S. 1386

Arts and Humanities Act of 1980. Extends the authorization for the NFAH and the IMS through FY85. S. 1386 introduced June 21, 1979; referred to Committee on Labor and Human Resources. Reported favorably by committee (S.Rept. 96-557), and passed the Senate, amended, Feb. 7, 1980. H.R. 7153 introduced Apr. 24, 1980; referred to Committee on Education and Labor. Reported by committee, amended (H.Rept. 96-937). The text of H.R. 7153, amended, was agreed to by the

House and inserted in lieu of the text of S. 1386. S. 1386, as amended, passed the House Nov. 17, 1980. Senate agreed to House amendments Nov. 20, 1980. Signed into law by the President Dec. 4, 1980.

P.L. 96-499, H.R. 7765

Omnibus Reconciliation Act of 1980. Among other provisions, amends various requirements of the HEA with regard to student loans and lenders of such loans. Introduced July 21, 1980; referred to Committee on the Budget. Reported by committee (H.Rept. 96-1167), and passed by the House, amended, Sept. 4, 1980. Received in the Senate and referred to the Committee on the Budget Sept. 8, 1980. Passed the Senate, amended, in lieu of S. 2885 and S. 2939, Sept. 17, 1980. Conference report (H.Rept. 96-1479) was agreed to by House and Senate Dec. 3, 1980. Signed into law by the President Dec. 5, 1980.

P.L. 96-511, H.R. 6410

Paperwork Reduction Act of 1980. Among other provisions, directs the Secretary of Education to coordinate the information collection activities of all Federal agencies if the respondents are primarily educational institutions or if the information collected is for formulating education policies. H.R. 6410 introduced Feb. 5, 1980; referred to Committee on Government Operations. Reported by committee, amended (H.Rept. 96-835), and passed the House, amended, Mar. 24, 1980. S. 1411 introduced June 26, 1979; referred to Committee on Governmental Affairs. Reported by committee, amended (H.Rept. 96-930). The text of S. 1411 was agreed to by the Senate and inserted in lieu of the text of H.R. 6410. H.R. 6410, as amended, passed the Senate Nov. 19, 1980. House agreed to Senate amendment Dec. 1, 1980. Signed into law by the President Dec. 11, 1980.

H.R. 3564 (Gibbons et al.)

Truth in Testing Act of 1979. Prohibits all educational or occupational testing affecting interstate commerce unless certain requirements are met, including notice of subject matter and results. Introduced Apr. 10, 1979; referred to Committee on Education and Labor. Subcommittee hearings held July 31, Aug. 1, Sept. 10 and 24, Oct. 10 and 11, 1979.

H.R. 4389 (Natcher)

Departments of Labor, and Health, Education, and Welfare Appropriations Act of 1980. Appropriates funds for Departments of Labor and HEW and related agencies. Introduced June 7, 1979; referred to House Committee on Appropriations. Reported favorably by committee (H.Rept. 96-244), and passed by the House June 27, 1979. Measure reported by Senate Committee on Appropriations (S.Rept. 96-247), and passed by the Senate with amendment July 20, 1979. Conference report was filed (H.Rept. 96-400), and House agreed to conference report Aug. 2, 1979, but insisted on its disagreement to certain Senate amendments. Senate agreed to conference report Sept. 24, 1979, but insisted on certain of its amendments. House further insisted on its disagreement to certain Senate amendments Oct. 30, 1979. (P.L. 96-86 -- H.J.Res. 412 -- provided continuing appropriations for specified programs and activities through Nov. 20, 1979. P.L. 96-123 -- H.J.Res. 440 -- provided continuing appropriations for specified programs and activities through Sept. 30, 1980. P.L. 96-304 -- H.R. 7542 -- provided supplementary appropriations for specified programs and activities and rescinded certain budgetary authority for FY80.)

H.R. 4949 (Weiss et al.)

Educational Testing Act of 1979. Prohibits standardized postsecondary admissions and admissions-preparation tests affecting interstate commerce unless certain requirements are met, including notice of subject matter and results. Introduced July 24, 1979; referred to Committee on Education and Labor. Subcommittee hearings held July 31, Aug. 1, Sept. 10 and 24, Oct. 10 and 11, 1979, and June 5 and 11, 1980.

H.R. 6115 (Simon et al.)

National Institute of Education Amendments of 1980. Extends the authorization for the NIE through FY85. Introduced Dec. 12, 1979; referred to Committee on Education and Labor. Reported favorably by committee, amended (H.Rept. 96-986), May 15, 1980.

H.R. 6711 (Perkins et al.)/S. 2385 (Williams et al.)

Youth Act of 1980. Amends the Comprehensive Employment and Training Act (CETA) to extend the authorization of youth training and employment programs. Extends the authorization of the private sector initiative program, the Job Corps, and the summer youth program. Establishes a new basic education and employment skills training program for disadvantaged youth, to be operated by State and local educational agencies. Introduced Mar. 5, 1980; referred to House Committee on Education and Labor, and Senate Committee on Labor and Human Resources. H.R. 6711 reported favorably by Committee on Education and Labor, amended (H.Rept. 96-1034), May 16, 1980, and passed by the House, amended, Aug. 26, 1980. S. 2385 reported favorably by Committee on Labor and Human Resources, amended (S.Rept. 96- 991), Sept. 25, 1980.

H.R. 7998 (Natcher)

Department of Education Appropriation Act, 1981. Appropriates funds for the Departments of Labor, Health and Human Services, and Education and related agencies. Introduced Aug. 21, 1980; referred to Committee on Appropriations. Reported by committee (H.Rept. 96-1244) and passed by the House, amended, Aug. 27, 1980. Measure received in the Senate and referred to Committee on Appropriations Sept. 3, 1980. (P.L. 96-369 -- H.J.Res. 610 -- provided continuing appropriations for specified programs and activities through Dec. 15, 1980. P.L. 96-536 -- H.J.Res. 644 -- provided continuing appropriations for specified programs and activities through June 15, 1980.)

H.R. 8145 (Perkins et al.)

Directs the Education Appeal Board to dismiss all actions seeking the repayment of certain funds provided to State and local agencies which are based on final audit determinations issued prior to a specified date. Introduced Sept. 18, 1980; referred to Committee on Education and Labor. Committee consideration and mark-up held Sept. 23, 1980. Subcommittee hearings held Nov. 19-20, 1980.

H.Con.Res. 318 (Perkins et al.)

Disapproves the final regulations pertaining to the Education Appeal Board authorized under the General Education Provisions Act. Introduced Apr. 24, 1980; referred to Committee on Education and Labor. Reported by committee (H.Rept. 96-939), and passed the House May 13, 1980. Passed the Senate May 15, 1980.

H.Con.Res. 319 (Perkins et al.)
Disapproves the final regulations pertaining to the Arts in Education Program authorized under the Elementary and Secondary Education Act of 1965. Introduced Apr. 24, 1980; referred to Committee on Education and Labor. Reported by committee (H.Rept. 96-940), and passed the House May 12, 1980. Passed the Senate May 15, 1980.

H.Con.Res. 332 (Perkins et al.)
Disapproves the final regulations pertaining to the Law-Related Education Program authorized under the Elementary and Secondary Education Act of 1965. Introduced May 7, 1980; referred to Committee on Education and Labor. Reported by committee (H.Rept. 96-1032), and passed the House May 19, 1980. Passed the Senate May 20, 1980.

H.Con.Res. 337 (Goodling)
Disapproves the final regulations pertaining to the Adult Education Program authorized under the Adult Education Act. Introduced May 14, 1980; referred to Committee on Education and Labor. Reported by committee (H.Rept. 96-1228), Aug. 19, 1980.

S. 878 (Roth et al.)/H.R. 4504 (AuCoin et al.)
Federal Assistance Reform Act of 1980. Directs the President to establish standard rules and regulations pertaining to specified Federal assistance programs, and to submit to the Congress a plan for consolidating functionally related programs when necessary. Provides for consolidated and multi-year funding for programs with common objectives. S. 878 introduced Apr. 4, 1979; referred to Committee on Governmental Affairs. Reported by committee, amended (S.Rept. 96-972), and passed the Senate, amended, Dec. 1, 1980. H.R. 4504 introduced June 18, 1979; jointly referred to Committees on Government Operations, and Rules.

S. 1429 (Pell)
Museum Services Amendments of 1979. Extends the authorization for the IMS through FY82. Introduced June 27, 1979; referred to Committee on Labor and Human Resources. Reported favorably by committee (S.Rept. 96-558), and passed by Senate, amended, Feb. 7, 1980.

S.Con.Res. 91 (Pell)
Disapproves the final regulations pertaining to grants to State educational agencies for educational improvement, resources, and support authorized under the Elementary and Secondary Education Act of 1965. Introduced Apr. 30, 1980; referred to Committee on Labor and Human Resources. Reported by committee (S.Rept. 96-769), and passed the Senate May 20, 1980. Passed the House May 21, 1980.

Irwin, Paul M.

ELECTIONS

MLC-028

CAMPAIGN FINANCING

...restricting the overall amounts...

Major changes in the laws regulating how political campaigns are financed have been enacted by Congress in recent years. Some of those changes, particularly in connection with the tax treatment of transactions involving political campaigns, have affected campaigns for every elective office in the Nation. Other modifications have related exclusively to the campaigns for Federal elective offices. The principal focus of the latter group of changes has been on the sources of funds used to defray relevant campaign expenses. Congress has, however, also exhibited an interest in restricting the overall amounts spent in campaigning for Federal offices. Thus, the Federal Election Campaign Act of 1971 included both provisions requiring certain information on contributions and donors to be disclosed and provisions limiting how much could be spent by or on behalf of a candidate for campaign use of the communications media. With the enactment of the Federal Election Campaign Act Amendments of 1974, the disclosure requirements were retained, though amended. However, the media spending limits were repealed and new limits on total campaign spending were added. The 1974 Amendments also added new limitations on the form, amounts, and sources of campaign contributions. The constitutional validity of the Federal Election Campaign Act, as amended, was challenged and, early in 1976, the Supreme Court upheld, in *Buckley* v. *Valeo*, both the disclosure requirements and the limits on amounts of contributions. However, with the exception of those imposed on candidates who voluntarily accept payments from the system of public financing for Presidential campaigns, all of the spending limits that had been challenged were struck down. The subsequently enacted Federal Election Campaign Act Amendments of 1976 imposed no new mandatory limits on candidate or independent spending.

Both before and during the period in which the Federal Election Campaign Act of 1971 and the 1974, 1976, and 1979 amendments were enacted, an alternative approach to regulating the sources of campaign funds also received congressional attention. That alternative approach involved the concept of so-called "public financing." The hallmark of that concept is the interposition of a governmental "middleman" between donors and recipient candidates. In other words, candidates who participate in a public financing system receive either some or all of the money they may spend for campaigning from governmental tax revenues rather than directly from private donors. It is claimed that such interposition reduces the possibility of actual or apparent *quid pro quo* arrangements between donors and recipients of campaign support. It has been argued that the kind of interposition contemplated can never be total and that the degree of interposition varies depending on the features of the particular public financing system under scrutiny (e.g., whether such system employs a matching mechanism, whether the system provides different amounts for different candidates, etc.).

In 1966, a public financing system for Presidential campaigns was enacted. But, one year later and before any money had been disbursed under the system, the operation was suspended. Then, in 1971, another such system was enacted and, though subsequently amended, the system remains in effect. During this same period, unsuccessful efforts were made to enact public financing systems for both House and Senate campaigns. At present, efforts to enact such congressional systems continue.

LEGISLATION

During the first session of the 96th Congress, one of the earlier issues was that of public financing of congressional elections. However, after much legislative activity regarding this issue, the Committee on House Administration voted not to report H.R. 1, the principal congressional public financing bill. The Senate had planned hearings on its bill, S. 623, but postponed them indefinitely with the defeat of H.R. 1.

With the change from the Carter Administration to the Reagan Administration and the emphasis on fiscal restraint, it is not yet clear whether major efforts will be made to revive public financing of congressional elections in the 97th Congress.

In the latter part of the first session, emphasis was placed on legislation that would make certain changes in the Federal Election Campaign Act of 1971, such as in the reporting and disclosure provisions of the Act. The Committee on House Administration reported H.R. 5010 (Federal Election Campaign Act Amendments of 1979) and the House passed the measure on Sept. 10, 1979. The Senate agreed to H.R. 5010 on Dec. 18, 1979, and the measure was signed into law (P.L. 96-187) on Jan. 8, 1980. Before signing the bill, the President expressed reservations to certain portions of the legislation which he felt violated the First Amendment rights of Federal workers.

On Oct. 17, 1979, the House passed S. 832, the Federal Election Commission authorization bill, with an amendment that would provide for new limitations on campaign contributions by political action committees (PACs). The passage of the plan, popularly known as the Obey-Railsback plan, would not be applicable to Senate candidates and would prohibit any House candidate from receiving more than $70,000 in any 2-year election cycle from PACs. Presently, there is no limitation on the amount House candidates can receive from PACs. The plan would also lower the amount one PAC could contribute to a candidate in a primary and general election from $10,000 to $6,000, of which no more than $5,000 could be received from a PAC in a single election. The Obey-Railsback plan was originally introduced as H.R. 4970. In regard to S. 832, the House asked for a conference with the Senate to consider S. 832, but further legislative action did not occur.

In the second session of the 96th Congress, H.R. 6702 was passed by the House on Mar. 10, 1980. This measure would amend section 603 of title 18, U.S. Code, to allow Federal employees to make voluntary contributions and to prohibit contributions to a Member of Congress from persons in his or her employ. This noncontroversial amendment passed the Senate on Sept. 9, 1980.

P.L. 96-187, H.R. 5010
Federal Election Campaign Act Amendments of 1979. Amends the Federal Election Campaign Act of 1971 and makes various changes in the reporting and disclosure requirements of the Act. Provides for various changes in the recordkeeping and reporting provisions of the Act. Simplifies and standardizes the types and amounts of information required to be listed by a political committee, both when registering and when reporting. Introduced Sept. 7, 1979; reported from Committee on House Administration Sept. 7, 1979 (H.Rept. 96-422). Passed House Sept. 10, 1979. Passed Senate Dec. 18, 1979. Signed into law (P.L. 96-187) Jan. 8, 1979.

H.R. 6702 (Frenzel et al.)
Amends section 603 of title 18, U.S. Code, so as to allow voluntary contributions by Federal employees and to prohibit contributions to a Member of Congress from persons in his or her employ. Reported from Committee on House Administration Mar. 6, 1980 (H.Rept. 96-816). Passed House Mar. 10, 1980; referred to Senate Committee on Rules and Administration; reported Sept. 3, 1980 (S.Rept. 96-922). Passed Senate Sept. 9, 1980.

Durbin, Thomas M.
IB73017

MLC-029

ELECTIONS: ELECTORAL COLLEGE REFORM

...reform measure defeated in Senate...

The method of electing the President and Vice President of the United States has been a continuing issue in American politics since the Constitutional Convention of 1787. The original electoral college system quickly underwent three major changes: electors became seen as agents of the popular will in each state, general tickets of electors were chosen by popular election in most states, and the election of the President and Vice President was separated, the last change effected by the Twelfth Amendment in 1804.

Since the early 19th century, other changes in the Presidential election system have been advocated, but none has been adopted. However, interest has renewed in the last two decades in revising the process. Four alternatives to the present system have received significant support: the district system (choosing one elector from each congressional district and two electors-at-large in each state), the proportional method (dividing each state's electoral vote in proportion to the popular vote in the state), direct election (under which the national popular vote winner is elected, subject, under most proposals, to receiving a minimum percentage of the popular vote), and the automatic plan (preserving a state's electoral votes, but having them cast automatically for the winner of a plurality within each state).

There was great interest in electoral college reform following the 1968 Presidential election, and extensive hearings were held in 1969 and 1970. A constitutional amendment establishing direct election was passed by the House in 1969 but later died in the Senate. Further hearings were held in 1973. In the 94th Congress, a direct election proposal, S.J.Res. 1, was reported by the Senate Judiciary Subcommittee on Constitutional Amendments to the full Judiciary Committee on May 21, 1975. However, no further action was taken. The Senate Judiciary Committee conducted five days of hearings early in the 95th Congress, beginning Jan. 27, 1977. On Mar. 22, 1977, President Carter, as part of his electoral reform proposal, called for the abolition of the electoral college and the establishment of direct popular election of the President and Vice President. Former President Ford reaffirmed his support of direct election of the President on June 1, 1977. Four additional days of hearings were held by the Subcommittee on the Constitution in July and August, 1977. On Dec. 6, 1977, the full Judiciary Committee reported S.J.Res. 1. However, the proposal was never brought to the floor of the Senate in the 95th Congress.

In the 96th Congress, supporters of direct election hoped to speed consideration by by-passing further hearings and placing S.J.Res. 28, a direct election proposal, directly on the Senate calendar on Feb. 22, 1979. On Mar. 14, 1979, the Senate began consideration of S.J.Res. 28; however, the next day the proposal was recommitted to the Committee on the Judiciary for 21 days to allow committee consideration and issuance of a report. As a part of this compromise, the Majority Leader was authorized to call up S.J.Res. 28 any time after June 1, 1979, and make the measure the pending business of the Senate. Hearings were held by the Committee on Mar. 27 and 30, and Apr. 3 and 9, 1979, and a report (S. Rept. 96-111) was filed in the Senate on May 1, 1979. On June 21, 1979, the Senate resumed consideration of S.J.Res. 28, debating electoral college reform on June 21, 26, 17, and July 9 and 10, 1979. S.J.Res. 28 was rejected by a vote of 51 to 48 on July 10, 1979 (a two-thirds vote being necessary for approval).

LEGISLATION

S.J.Res. 28 (Bayh)

Provides for the direct popular election of the President and Vice President; states that each elector shall cast a single vote for two persons who have consented to the joining of their names as candidates for President and Vice President; stipulates that the pair of persons having the greatest number of votes for President and Vice President shall be elected, if such number be at least 40% of the whole number of votes cast for such offices. If no pair of persons has such number, a runoff election shall be held between the two pairs of persons who received the highest number of votes in the original general election. Introduced Jan. 25, 1979; referred to Committee on the Judiciary. Reported to Senate from Committee on the Judiciary (S.Rept. 96-111) Apr. 10, 1979. Failed to pass Senate July 10, 1979.

Gorman, Joseph
IB75056

ENERGY AND FUELS

MLC-030

ENERGY AND THE 96TH CONGRESS: OVERVIEW

...synthetic fuels, gasoline rationing, and windfall profit taxes...

With President Carter's signing on June 30, 1980, of the Energy Security Act (creating a synthetic fuels corporation and expanding other energy supply incentives), the second major energy enactment of the 96th Congress became law. The windfall profit tax had been enacted in April. The third major bill, the Energy Mobilization Board, was rejected by the House by a large margin and returned to the conference committee, killing the measure. A proposal to mandate coal conversion in certain powerplants now burning oil passed in the Senate, with the affected units reduced from 107 to 80, but was never voted on in the House.

The 96th Congress passed low-income energy cost assistance legislation, emergency energy conservation and gasoline rationing authority, assistance to Energy Expo '82, pipeline safety amendments, legislation dealing with allocation and pricing of power in the Pacific Northwest, and various appropriation and authorization laws.

GENERAL ISSUES

The major legislative proposals that confronted the 96th Congress were those that emerged from President Carter's energy messages of 1979. Among other programs, President Carter proposed an Energy Mobilization Board (EMB) to expedite energy projects, a synthetic fuels corporation to give birth to a new energy industry, and a windfall profit tax to capture for the public the largest part of the increase in domestic oil prices that will occur as other prices are decontrolled and rise to OPEC price levels.

A conference committee of Members of the House and the Senate reached agreement May 1 on conflicting versions of S. 1308, giving energy projects a "fast track" by means of an Energy Mobilization Board. The House then killed the EMB proposal with a stunning vote (232-131), recommitting the bill to conference without instructions. Environmentalists, as well as those concerned with State and local rights, saw the EMB as a serious threat. In addition, a concern about its effectiveness, expressed in lapel buttons reading "Even More Bureaucracy," may have had a major effect on the vote. The Energy Mobilization Board, consisting of three members located in the Executive Office of the President, would expedite decision-making for non-nuclear facilities. When necessary, EMB would preempt national, State, and local governmental bodies, applying the relevant laws and regulations. See IB79126 -- EMB: Comparing S. 1308 and H.R. 4985 and Summarizing Conference Agreements.

Congress debated and passed bills (S. 932 and H.R. 3930) to expedite production of synthetic fuels such as shale oil and coal gas. The bills differed greatly. A conference began meeting and finally reached agreement on May 21, 1980. The Senate accepted the conference report on June 19 (78-12) and the House followed shortly thereafter, enabling the President to sign the measure into law on June 30, 1980. The bill both authorizes the purchase of synthetic fuels under the authority of the Defense Production Act (the central thrust of the House bill) and creates the U.S. Synthetic Fuels Corporation (the central thrust of President Carter's proposal and the Senate bill). In scale the Synthetic Fuels Corporation would be comparable to General Motors, Exxon, or TVA. According to the conference report, it would have a 12-year initial life and financial resources of $20 billion initially and $68 billion in addition for later years. It would have a broad range of devices at its disposal encouraging synfuel development, including loans, grants, purchase agreements, and direct ownership and operation. Called the Energy Security Act, the bill has a number of other provisions dealing with alcohol fuels, biomass, urban waste fuel, residential energy conservation, geothermal energy, and acid rain. In addition, the conference agreement ordered the filling of the strategic petroleum reserve at the rate of 100,000 barrels per day. See IB79090 -- Energy: The Synthetic Fuels Corporation (Proposed).

The conference on H.R. 3919 agreed to a figure of $227.7 billion for revenue from a tax on "windfall profits" the oil companies earn between now and 1990, if OPEC oil prices rise only 2% a year faster than prices generally. Among its major actions, the conference set a much higher tax rate for already-discovered oil produced by conventional methods than for newly discovered and difficult-to-produce oil, determined how the burden would be divided between major and independent oil producers, and allocated 25% of the revenue total to low-income families to help them cope with soaring energy prices. The conference report was passed by both Houses and was signed by President Carter on Apr. 2. See IB80010 -- Oil Windfall Profit Tax Bills.

An important Carter Administration proposal concerned the phasing out of oil use in electric utility generators. Proposed in S. 2470, the so-called oil backout proposal was an attempt to achieve full conversion in largely the same powerplants that did not convert from oil in response to the Energy Supply and Environmental Coordination Act of 1974 and the Powerplant and Industrial Fuel Use Act of 1978. The bill would have committed substantial Federal funds to the program and was calculated to reduce oil consumption by 400,000 barrels per day. The Senate passed the measure on June 24 (86-7) after it was modified in committee to eliminate some borderline utility powerplants, and amended to remove a requirement that powerplants stop using natural gas by 1990. However, the House did vote on the measure prior to adjournment of the Congress. See IB75046 -- Power Plants: Converting to Coal.

State and local governments would have been given enhanced duties under the Energy Management Partnership Act (EMPA), S. 1280 and H.R. 4382. EMPA proposed to consolidate DOE grants for conservation, the energy extension service, weatherization, building codes and many other programs. Although passed in the Senate, the measure was rejected in the House by a vote of 164-192. See IB79064 -- Energy Management at the State and Local Level. Impact assistance was the subject of several bills. This legislation would have mitigated social and economic disruption due to energy development such as the large coal mines opening in Wyoming and Montana. See IB79022 -- Energy Impact Assistance Legislation.

On Jan. 30 the House Select Committee on Committees recommended establishing an Energy Committee combining the energy jurisdiction of the Interstate and Foreign Commerce Committee (Subcommittee on Energy and Power) along with some energy jurisdiction of the Interior and Public Works Committees. Proponents argued that this would focus most energy jurisdiction in a single committee and would enhance the authority and its effectiveness by having it be a full committee, not a subcommittee. Critics argued that the Commerce Subcommittee on Energy and Power already provides a focus and that establishing an Energy Committee would be a symbolic action since jurisdiction for major aspects of energy will not be shifted to the new committee. The House voted to change the name of the Interstate and Foreign Commerce Committee to the Committee on Energy and Commerce, and to expand the committee's jurisdiction to include questions of general energy policy.

OIL ISSUES

In March 1979, the Carter Administration transmitted a proposed standby gasoline rationing plan to Congress pursuant to provisions in the Energy Policy and Conservation Act (P.L. 94-163) enacted in late 1975. The plan, which could be rejected by a one-House veto, was approved in the Senate but disapproved by the House on May 10. The Emergency Energy Conservation Act (P.L. 96-102), enacted into law on Nov. 5, 1979, required the Administration to submit another rationing plan and amended the process by which Congress would review the proposed plan. A final version of the revised rationing plan was transmitted to Congress on June 12, 1980. On July 30, 1980, Congress assented to President Carter's standby gasoline rationing plan, which would go into effect only if there were a 20% gas shortage.

Other measures that were submitted to Congress for approval in spring 1979 included plans to restrict weekend gasoline sales, to establish mandatory thermostat and hot water temperature settings in non-residential buildings, and to restrict lighting of outdoor advertising. Only the building temperature restriction plan was approved and enacted. It was scheduled to expire on Apr. 15, 1980, but has been extended by President Carter through January 1981.

The Emergency Energy Conservation Act also provided authority for the President to declare national energy emergencies and to establish conservation targets for specific fuels for individual States. The States may develop their own conservation plans for meeting designated targets; however, the legislation provides for imposition of a standby Federal emergency energy conservation plan if States fail to develop suitable conservation plans or if their plans prove ineffective to meet the designated targets. The standby Federal plan was released early in February 1980. See IB79001 -- Gasoline Rationing and Other Standby Conservation Authorities.

On Mar. 14, 1980, President Carter announced his intention to impose a fee on oil imports which would be passed on to consumers entirely through a 10-cent-per-gallon fee on gasoline. The President relied on authorities in the Trade Expansion Act and the Emergency Petroleum Allocation Act to impose the fee, but his action was overturned in U.S. District Court for the District of Columbia. An appeal was filed, but was rendered moot by congressional action. The House and Senate passed and sustained over President Carter's veto a repeal of his authority to impose the fee, effective June 6, 1980.

Many bills aimed at reducing, controlling, or channeling oil company market power have been submitted; most would "divest" oil companies of many of their chief means of influencing their markets. S. 1246, introduced by Senator Kennedy, would have channelled major oil company profits to investment in energy rather than in non-energy. The measure cleared the Senate Judiciary Committee, and, thus, progressed one step further than most other bills of this kind. However, the full Senate did not consider the bill prior to adjournment of the 96th Congress. See IB79066 -- Energy: Oil Imports. Also see IB79023 -- Crude Oil Price Controls: Background and Policy Alternatives.

NUCLEAR POWER ISSUES

In late October the Kemeny Commission released its report on the Three Mile Island nuclear accident. The Mar. 28, 1979, malfunction near Harrisburg, Pennsylvania, caused schools to close and pregnant women and small children to flee. Had conditions deteriorated further, 200,000 to 300,000 residents would have been evacuated. As the events unfolded, the Nuclear Regulatory Commission entered management of the crisis, eventually taking charge of the situation. Three Mile Island raised several issues for Congress. How safe is nuclear power? Were NRC safety standards stringent enough? What is the NRC's role in direct crisis management? Is the Price-Anderson Act an adequate way to handle liability? What is the Federal Government's role under provisions of the Disaster Assistance Act of 1974? For details, see IB79035 -- Nuclear Power: The Three Mile Island Accident and Its Investigation. Nuclear plant licensing is discussed in IB77035 -- Nuclear Power Plants: State vs. Federal Control.

Nuclear waste management remained controversial throughout the 96th Congress. DOE's Waste Isolation Pilot Plant project (WIPP) has run into political difficulties. Originally conceived as a repository for military long-lived radioactive wastes (called "transuranic" or TRU wastes), its conceptual role was expanded to research on disposal of high-level reprocessed wastes and a limited number of commercial spent fuel elements. This approach drew criticism from the House Armed Services Committee, which refused to fund the project if DOE insisted on licensing it and if State concurrence in the project were made a requirement. The project was revived in a compromise between the House and Senate Armed Services Committees that provides for an "agreement for cooperation" on WIPP construction between the Federal Government and the State of New Mexico.

On July 30, 1980, the Senate voted to direct the Energy Department to build several temporary storage facilities around the country while a permanent disposal plan is developed. In December, the House passed its own version of S. 2189, a comprehensive waste management bill which, however, did not include provisions for temporary storage. The House version set up a detailed process for participation of State and local authorities in the licensing of high-level waste repositories and approved a system of regional/State compacts to deal with low-level waste disposal. In the Senate, the House provisions met with opposition. On Dec. 13, 1980, the Senate sent back its own version of S. 2189, which included only the provisions on low-level wastes. That version was approved by the House and sent to the President before the 96th Congress adjourned on December 16. See IB75012 -- Nuclear Waste Management.

COAL

The major legislation concerning coal in the 96th Congress was the attempt to increase utility coal use by means of the "oil backout" legislation referred to above, under GENERAL ISSUES. On the coal production side, the Senate passed amendments to the Surface Mining Control Act of 1977 that would give the States greater flexibility in administering the Act, but the legislation was not acted on in the House. See IB74074 -- Surface Mining: Federal Regulation. Legislation to permit slurry pipelines the power of eminent domain was considered but did not pass either body (see IB75050 -- Coal Slurry Pipelines).

NATURAL GAS

After the great struggle during the 95th Congress on natural gas pricing legislation, the 96th Congress expected a respite concerning this fuel. An issue came up, however, concerning Title II of the Natural Gas Policy Act of 1978. Title II provides for natural gas companies to pass through to industrial customers the higher cost of more expensive natural gas the Act allowed, in order to protect residential customers from gas price increases and to provide proper price signals to the natural gas market. Measures to repeal Title II were introduced and widely cosponsored in both Houses (S. 2393, H.R. 5862) based on the additional cost of natural gas to industry and the likelihood that companies switching from natural gas would begin using oil. Instead of repealing Title II, the House voted May 20 (369-34) to reject the Federal Energy Regulatory Commission's proposed regulations under Phase II of incremental pricing.

ELECTRICITY AND OTHER ISSUES

The 96th Congress considered a number of issues in relation to the electric utility industry. The issues were both regional and national in scope and involved the areas of electric power supply, energy conservation, and electric utility rate structures. Also see "Renewable and Unconventional Energy Sources," which is the next entry in this book.

LEGISLATION

GENERAL ISSUES

P.L. 96-102, S. 1030

Emergency Energy Conservation Act of 1979. Title I: Standby motor fuel rationing. States the findings of Congress concerning a standby gasoline rationing plan for motor fuels that: (1) such a plan should provide, to the maximum extent practicable, that the burden of reduced supplies of motor duels be shared by all persons in a fair and equitable manner and that the economic and social impacts be minimized; and (2) such a plan be sufficiently flexible to respond to changed conditions and sufficiently simple to be effectively enforced and administered. Directs the President to prepare and transmit to the Committee on Interstate and Foreign Commerce of the House and the Committee on Energy and Natural Resources of the Senate, a report describing the measures taken to establish a system of rationing of gasoline and diesel fuel, a timetable for completion of such measures, and an estimate of the costs. Specifies the issues to be addressed in such a report. Introduced Apr. 26, 1979; referred to Committee on Energy and Natural Resources. Reported, with amendment, May 4, 1979 (S.Rept. 96-117). Measure passed Senate, amended, June 5, 1979. Measure passed House, amended, Aug. 1, 1979. Senate and House agreed to conference report on Oct. 17 and Oct. 23, 1979, respectively. Measure signed into law Nov. 5, 1979.

P.L. 96-294, S. 932

Energy Security Act. Introduced as Defense Production Act Extension Amendments of 1979. Amends the Defense Production Act of 1950 to extend the authority granted by such Act. Reported from Committee on Banking, Housing and Urban Affairs (S.Rept. 96-166) May 15. Passed Senate June 20. Passed House, amended, in lieu of H.R. 3930 June 26. Reported jointly from Committees on Energy and Natural Resources and on Banking, Housing, and Urban Affairs, with amendment (S.Rept. 96-387). Conference began Dec. 11. Conference report filed in House June 18, 1980 (H.Rept. 96-1104). Conference report (S.Rept. 96-824) filed and approved in Senate June 19. Enacted into law June 30, 1980.

H.R. 3930 (Moorhead, W. et al.)

Amends the Defense Production Act of 1950 to allow the Department of Energy and the Tennessee Valley Authority to guarantee loans to expedite national defense contracts under such Act. Authorizes the President to provide loans to private business enterprises for the production of energy. Directs the President to attempt to achieve a specified national production goal for synthetic fuels and synthetic chemical feedstocks within 5 years. Introduced May 3, 1979. Reported May 15 (H.Rept. 96-165) by Committee on Banking, Finance, and Urban Affairs. Measure laid on table June 26, 1979; S. 932 passed in lieu.

H.R. 4985 (Udall et al.)
Provides for a coordinated, simplified, and prompt process for Federal approval of non-nuclear energy facilities which are determined to be in the national interest. Establishes an Energy Mobilization Board to be appointed by the President to designate priority energy projects, based on specified criteria, and to publish a project decision schedule containing deadlines for all Federal actions relating to such projects. Reported from Committee on Interior and Insular Affairs (H.Rept. 96-410, part I) Aug. 2, 1979. Reported from Committee on Interstate and Foreign Commerce (H.Rept. 96-410, part II) Sept. 21, 1979. House passed S. 1308 in lieu.

S. 971 (Hart et al.)
Energy-Related Economic Development Act of 1979. Amends the Public Works and Economic Development Act to provide economic development assistance to regions suffering from increases in energy-related employment. Introduced Apr. 10, 1979; referred to Committee on Environment and Public Works.

S. 1280 (Jackson (by req.))
Energy Management Partnership Act. Amends the Energy Policy and Conservation Act to establish a State Basic Energy Program and to provide financial assistance for special energy projects to be conducted by units of local government and Indian tribes. [Also see H.R. 4382.] Introduced June 5, 1979; referred to Committee on Energy and Natural Resources. Reported, with amendment, June 9, 1980 (S.Rept. 96-799). Passed Senate, amended, July 25. Referred jointly to House Committees on Science and Technology and on Interstate and Foreign Commerce. Referred jointly to House Committees on Science and Technology and on Interstate and Foreign Commerce July 28, 1980. Measure failed of passage in House under suspension of rules Dec. 1, 1980.

S. 1308 (Jackson et al.)
Energy Supply Act. Provides for an expedited decisionmaking process by establishing a strategy for identifying and advancing non-nuclear energy projects. Establishes a 5-year program for leasing onshore Federal lands for oil and gas exploration and development. Sets mandatory production levels for alcohol-blended fuels. Requires short-term conversion from oil to natural gas or coal and wheeling of non-oil fired electricity to systems dependent on oil. Establishes incentives to advance the commercialization and use of solar energy, wind, urban waste, and other renewable energy sources. Introduced June 11, 1979; referred to Committee on Energy and Natural Resources. Passed Senate Oct. 9. Passed House in lieu of H.R. 4985 on Nov. 1. Conference began Dec. 10, 1979. Conference report filed in House June 21, 1980 (H.Rept. 96-1119). Conference report considered in House June 27, 1980. Motion to recommit conference report to Committee of Conference passed House, 232-131, June 27, 1980.

S. 2470 (Ford, W.H., et al.)
Amends the Powerplant and Industrial Fuel Use Act of 1978 to prohibit the use of petroleum or natural gas as a primary energy source in electric powerplants without express exemption by the Secretary of Energy. Authorizes the Secretary to make grants: (1) for the conversion of such plants to the use of coal or another alternate fuel as a primary energy source; (2) for the design and installation of sulfur removal systems in coal-using powerplants; (3) for the capital costs of constructing facilities for reducing the sulfur content of coal; and (4) for the achievement of fuel displacement targets. Introduced Mar. 24, 1980; referred to Committee on Energy and Natural Resources. Reported with amendment (S.Rept. 96-802) June 16. Passed Senate, amended, June 24, 1980.

OIL ISSUES

P.L. 96-264, H.R. 7428
Extends the temporary increase of the public debt limit. Amended June 4 to terminate the oil import fee proposed by the President on Apr. 2, 1980. Called up by special rule in House June 4, 1980. Passed House and Senate the same day.

H.Res. 212 (Staggers)
Resolution to approve the standby gasoline rationing plan (Department of Energy standby rationing plan #1). Rejected May 10. See P.L. 96-102, under GENERAL ISSUES, above.

H.J.Res. 531 (Shannon et al.)
Disapproves the President's imposition of import fees on petroleum and petroleum products pursuant to the Trade Expansion Act of 1962. Introduced Apr. 15, 1980; referred to Committee on Ways and Means. Reported (H. Rept. 96-1061) May 29, 1980. Passed House June 4. Indefinitely postponed in Senate June 6, 1980 (see P.L. 96-264, above, for similar provisions).

H.Res. 697 (Bolling)
Provides for the consideration of the joint resolution H.J.Res. 531 disapproving the imposition, effective Mar. 15, 1980, by the President of fees on the importation of crude oil and gasoline. Reported by Committee on Rules (H.Rept. 96-1074) June 4. Passed House June 4.

NUCLEAR POWER ISSUES

S. 2189 (Johnston et al.)
Nuclear Waste Policy Act. Directs the Secretary of Energy to: (1) acquire and construct at least one facility for the interim storage of spent fuel from civilian nuclear powerplants; (2) select a technology and design for a system of at least one Federal facility for the disposal of high-level radioactive waste generated by civilian nuclear activities; and (3) finance the construction, operation, and maintenance of nuclear waste storage and disposal facilities. Directs the Secretary and the Nuclear Regulatory Commission to expedite the use of available on-site storage. Directs the President to report to Congress on low-level nuclear waste disposal. [Also see S. 742 and S. 1521.] Introduced Jan. 3, 1980; reported from Committee on Energy and Natural Resources (S.Rept. 96-548) the same day. Passed Senate, amended, July 30, 1980. Measure passed House, amended, Dec. 3, 1980, in lieu of H.R. 8378. Senate agreed to House amendment on Dec. 13, 1980. The measure has been sent to the President but, as of Dec. 19, had not been signed into law.

ELECTRICITY ISSUES

P.L. 96-294, S. 932

Energy Security Act. Introduced as Defense Production Act Extension Amendments of 1979. As far as electricity issues were concerned, Title V -- Energy Conservation Act of 1979 established an Energy Conservation Bank to provide subsidies for below-market interest rate and graduated-payment loans made to owners and lessees of commercial and residential structures for the purchase and installation of energy conservation measures. Directs the Bank, beginning in FY80, to provide subsidies to financial institutions that extend below-market interest rate and principal-deferred loans for the purchase and installation of energy conservation measures that meet the requirements of this Act. Requires the Secretary of Housing and Urban Development to submit to Congress a report on the market penetration of assistance provided by the Bank. Establishes the Residential Energy Conservation Office within the Department of Energy to provide funds to States to improve the energy efficiency of residences. Sets forth (1) the duties of the Director, and (2) the elements that a State Supplemental Plan must contain to qualify for this program. Introduced Apr. 9, 1979; referred to more than one committee. Reported from Committee on Banking, Housing and Urban Affairs (S.Rept. 96-166) May 15, 1979. Passed Senate June 20, 1979. Passed House, amended, in lieu of H.R. 3930, June 26, 1979. Reported jointly from Senate Committees on Banking, Housing and Urban Affairs and on Energy and Natural Resources, with amendment (S.Rept. 96-387) Oct. 30, 1979. Senate agreed to House amendment with an amendment Nov. 8, 1979. Conferences held in House and Senate. Enacted into law June 30, 1980.

P.L. 96-501, S. 885

Pacific Northwest Electric Power Planning and Conservation Act. Requires the Administrator of the Bonneville Power Administration to prepare a regional power planning and conservation program utilizing the Federal Columbia River Power System. Establishes a representative regional power planning process to ensure the provision of a reliable and adequate electric power supply. Directs the Administrator to give priority to the development of renewable energy resources in the event regional electric power obligations cannot be met through the use of conservation measures. Introduced Apr. 5, 1979; referred to Committee on Energy and Natural Resources. Reported (S.Rept. 96-272) July 30, 1979. Passed Senate, amended, Aug. 3, 1979. Referred jointly to House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs Sept. 5, 1979. Reported to the House (H. Rept. 96-976, part 1) with amendment, from the Committee on Interstate and Foreign Commerce May 15, 1980. Passed House, amended, Nov. 17, 1980. Signed into law Dec. 5, 1980.

Jimison, John W

MLC-031

RENEWABLE AND UNCONVENTIONAL ENERGY SOURCES: GASOHOL, SOLAR, SYNFUELS, AND WIND

...secure from threats of arbitrary interruption and price manipulation...

The United States gets about 95% of its energy from four nonrenewable, or so-called "conventional" energy sources: oil, natural gas, coal, and nuclear. Fundamental to the U.S. energy problem today is the fact that about half the energy used is in the form of oil, and about half the oil consumed is imported. This degree of dependence on imported oil poses a serious threat to the long-term economic and political stability of the United States. If the Nation is to grow and prosper in the coming decades, assured supplies of energy are needed from sources secure from threats of arbitrary interruption and price manipulation. Accordingly, the Federal Government is attempting to introduce an energy policy that will bring about a major transition in the Nation's sources of energy supply. If this policy is successfully pursued, the United States should significantly reduce its dependence on imported oil over the next two decades. Future demand growth will be met not only with domestic supplies of conventional oil and gas, but increasingly with coal, nuclear, renewable energy technologies, and high-cost unconventional sources of gas and oil.

The challenges of the transition period are formidable. Development of new transitional supplies and the development of markets for those supplies will take many years and require enormous investments. Yet most will agree that a broader range or mix of energy supply sources -- based on domestic resources -- is vital to the continuing economic strength and security of the United States.

With respect to several of the renewable and unconventional energy sources, the chief options include: (1) synthetic fuels (which include alcohol blended with gasoline to make "gasohol") produced from coal, oil shale, tar sands, solid wastes, and biomass; (2) unconventional natural gas and oil, which includes geopressured natural gas, heavy oils, and tight gas formations; (3) geothermal energy; and (4) solar energy which includes direct thermal applications for heating and cooling building space, thermal electric conversion, photovoltaics, wind energy conversion, ocean thermal energy conversion, and (in the broadest sense) hydroelectric power and the direct combustion of wood. Fusion power and various breeder reactor fuel cycles are among other unconventional energy supply options under development for possible application in the longer-term.

The theme common to these potential sources of commercial energy supplies is that they represent either renewable or virtually inexhaustible resources, and as the name "unconventional" implies, they are not now in widespread use. The United States currently gets about 5% of its energy from solar power, defined broadly to include hydroelectric projects, and wood burning. The Carter Administration's strategy for increasing the contribution from renewable and unconventional energy sources was embodied in the National Energy Act of 1978, the oil Import Reduction Program (announced July 16, 1979), and in other programs. Legislation to establish some of the essential elements of this strategy was comprised primarily of the Windfall Profit Tax Act (P.L. 96-223) and the Defense Production Act Amendments (P.L. 96-294), which were enacted, and the Priority Energy Project Act of 1979 (S. 1308), which was not enacted.

Action in the 96th Congress with respect to gasohol, synthetic fuels, solar power and wind energy is examined in the LEGISLATION section of this entry. For additional information on these energy topics, see: Fact Book on Non-Conventional Energy Technologies, CRS Report 79-47 SPR. Also see the following issue briefs: Breeder Reactors: the Clinch River Project, IB77088; Coal Gasification and Liquefaction, IB77105; Energy from Solid Wastes and Bioconversion, IB74064; Gasohol: the Alcohol Fuels, IB74087; Geothermal Energy, IB74089; Magnetohydrodynamic (MHD) Power Generation, IB74057; Nuclear Fusion Power: Potential Energy Source, IB76047; Ocean-Generated Power: Ocean Thermal Energy Conversion, IB74058; Oil Shale Development: Outlook, Current Activities and Constraints, IB74060; Solar Energy from Space: Satellite Power Stations, IB78012; Solar Power, IB74059; Synthetic Fuels Corporation and Technology, MB79245; and Wind Energy, IB80091.

GASOHOL: THE ALCOHOL FUELS

Alcohol has been distilled from agricultural crops for thousands of years, and alcohol so created has been used as an automotive fuel as early as the beginning of this century. Interest in alcohol as a fuel reached a new peak beginning in the late 1970s, spurred by the energy shortage, by low prices for farm crops, and by the January 1980 embargo on most U.S. grain shipments to the Soviet Union. Mixtures of alcohol and gasoline are popularly known as "gasohol". The gasohol blend currently in use, which contains 10% alcohol and 90% gasoline, is now on sale in over 1000 gasoline stations in the United States. Congress took major steps to promote the use of alcohol fuels in two bills enacted in 1980, the "windfall profit" bill and the Energy Security Act. Interest in alcohol fuels is not limited to this country; in Brazil, the national goal of replacing 20% of that nation's gasoline consumption with ethanol is said to have largely been achieved. Brazil is now planning to operate much of its automotive fleet on pure ethanol.

The current rate of production of ethanol for use in gasohol is approximately 120 million gallons per year. The immediate stated goal of the Carter Administration was to replace 10% of U.S. sales of unleaded gasoline with gasohol. This would require over 400 million gallons of alcohol, to make over 4 billion gallons of gasohol. Questions have been raised as to whether the Nation has sufficient distilling capacity to accomplish this goal in the near future.

For the future, the Energy Security Act established goals of 920 million gallons per year by the end of 1982, and 10% of gasoline consumption (11 billion gallons per year at today's consumption rates) by 1990. To achieve the 1990 goal, it would be necessary to go beyond the current practice of converting agricultural crops to ethanol, and to use wood and other cellulosic materials (such as cornstalks and other agricultural byproducts, and municipal wastes) as sources of methanol or ethanol. Cellulose can readily be converted to methanol, but there are questions as to the compatibility of methanol with existing automobiles. Cellulose-to-ethanol conversion is not yet technically feasible, but is being actively studied on a laboratory scale at this time.

Federal efforts to develop the alcohol fuels began rather slowly, but picked up as both the executive and legislative branches took a greater interest in these potential alternative fuel sources. Congress passed legislation providing for alcohol fuel pilot plants as part of the Food and Agricultural Act of 1977 (P.L. 95-113). The Energy Tax Act, H.R. 5263 (P.L. 95-618) contains an amendment exempting alcohol fuels from the Federal excise tax of 4 cents per gallon. The Surface Transportation Assistance Act (P.L. 95-599) contains an amendment establishing a National Alcohol Fuels Commission to conduct a 1-year study of the alcohol fuels question. President Carter included gasohol as one of the components of his new energy program, and the Department of Energy, in June 1979, completed its "Alcohol Fuels Policy Review" and published its final report, outlining the problems and prospects for alcohol fuels in the next decade.

Legislation enacted by the House and Senate in the 96th Congress includes the following:

The Energy Security Act, P.L. 96-294, signed into law June 30, 1980, authorizes $1.2 billion in funds for biomass energy programs, to be available in the form of insured loans, loan guarantees, price guarantees, and purchase agreements. The funding is divided evenly between the Departments of Energy and Agriculture, with DOE handling large projects and USDA handling smaller facilities. It also includes provisions which set production goals for alcohol fuels of 920 million gallons per year by 1982 and 10% of gasoline consumption by 1990, establish an Office of Alcohol Fuels within the Department of Energy, expand USDA's programs to stimulate research on alcohol from agricultural crops, direct that Federal vehicles shall use gasohol where feasible, and direct that enough gasoline be made available for blending into gasohol.

The "windfall profit" bill (P.L. 96-223), signed into law Apr. 2, 1980, includes provisions that extend the 4-cents-per-gallon excise tax exemption through the year 1992, provide tax credits for pure alcohol fuels, simplify the BATF regulations as they apply to alcohol fuel production, and direct the Secretary of the Treasury to recommend ways in which the tax exemption and tax credit provisions can be denied to fuels containing imported alcohol.

The Gasohol Competition Act, P.L. 96-493, was signed into law on Dec. 2, 1980. It is intended to prevent the oil companies from discriminating against or unreasonably limiting the sale of gasohol or other synthetic motor fuels. The budget reconciliation bill was signed into law Dec. 5, 1980, as P.L. 96-499. It includes a provision which establishes a tariff on imported alcohol of 10 cents per gallon in 1981, 20 cents in 1982, and 40 cents thereafter. The purpose of the tariff is to offset the 40-cents-per-gallon subsidy on alcohol fuel provided by the tax laws, which applies to imported as well as domestic alcohol.

(Migdon Segal, Science Policy Research Division)

SYNTHETIC FUELS

Synthetic fuels, in the broadest sense, include oil, gas, and other fuels extracted from coal, oil shale, peat, and tar sands. By applying different combinations of heat, pressure, air, oxygen, or water, or by using such biological reactions as fermentation, a variety of fuels and feedstocks can be produced from these resources. Depending upon the specific chemical characteristics of each product, synthetic fuels can be used as boiler, transportation, or aviation fuels; as a replacement for natural gas; or as input fuel for an electrical generator.

Associated with the commercialization of synthetic fuels (synfuels) are a variety of economic, environmental, and regulatory concerns and uncertainties. For example, the capital and production costs of synfuels plants processing coal and oil shale will be large; hence, these technologies may yield fuels that are more expensive than conventional fuels. Although low-sulfur, low-nitrogen, and low-ash fuels could be produced, many processing systems would release an array of effluents that would have to be monitored and controlled carefully. In order to construct and operate large synfuels plants, numerous Federal, State, and local regulatory permits would have to be obtained; environmental standards concerning air, water, and land impacts would have to be met; and in some cases, economic regulatory decisions would need to be issued.

National Synfuels Production Program

The Federal Government and U.S. industry are now embarking on the largest and most intensive effort ever undertaken to increase the production of synfuels as well as other domestic fuels. This effort consists of two major parts: an interim program and a long range program. The interim program can be divided into the Department of Energy's (DOE) Alternative Fuels Production Program, and a joint DOE-Department of Defense (DOD) program which allows funding for synfuels projects under amendments to the Defense Production Act. The long range program will be conducted by the United States Synthetic Fuels Corporation (SFC), an independent Federal entity which will function primarily as an investment bank to accelerate the commercialization of synfuels.

The legislative basis for these programs includes P.L. 96-126 and P.L. 96-304, which appropriate funds to be administered pursuant to previous statutory authority, and the Energy Security Act, P.L. 96-294, which authorizes funds for the SFC as well as for the joint DOE-DOD program. (Additional information on these statistics is presented below.) These three statutes working together could authorize up to $88 billion for the SFC and appropriate $19 billion into the "Energy Security Reserve" in the U.S. Treasury, which is to be allocated as follows:

-- up to $5.518 billion for the interim program;
-- $12.212 billion for the SFC plus balances from the interim program unobligated by June, 30, 1981; and
-- $1.27 billion for the production of biomass fuels, which are not discussed in this section.

Taken together, these laws provide the framework for a National Synfuels Production Program with the goal of a daily capacity of .5 million barrels of oil equivalent by 1987 and 2.0 million barrels by 1992. These laws fundamentally change the economic relationship of the public sector to private synfuels projects. By providing financially attractive incentives, DOE and SFC should significantly reduce the market and investor constraints to production. Because of the huge sums of Federal funds at risk and because of the numerous constraints facing commercialization, congressional oversight of the National Synfuels Production Program seems essential. Presented below is a discussion of coal- and oil-shale based synfuels, DOE's Alternative Fuels Production Program, and the SFC.

Past Synfuels Legislation

Over the last 5 years, Congress has debated a variety of means to promote the orderly development of a synfuels industry. Selected public laws that may aid the emerging synfuels industry are summarized below.

(1) P.L. 93-577 authorizes the use of price guarantees and product purchases to promote the advancement of technology for converting coal to liquid fuels. This law also authorizes the creation of a Government-industry corporation designed to advance coal gasification technology.

(2) P.L. 95-238 gives the Secretary of Energy the authority to provide loan guarantees for demonstration facilities designed to advance technology for the conversion of coal, biomass, and oil shale into alternative fuels.

(3) P.L. 95-113 authorizes research grants and pilot projects for "the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products."

(4) P.L. 95-618 contains a provision that exempts automotive fuels consisting of at least 10% alcohol (excluding alcohol derived from petroleum or coal) from the Federal excise tax on gasoline of 4 cents per gallon. This law allows a special 10% investment tax credit for some synfuels projects.

(5) P.L. 96-126 (H.R. 4930) creates a special fund designated the Energy Security Reserve and appropriates $19 billion to this fund "to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources." The law defines alternative fuels as "gaseous, liquid, or solid fuels and chemical feedstocks derived from solid wastes, coal, shale, tar sands, lignite, peat, biomass, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof."

Of the $19 billion, the following sums are appropriated to the Secretary of Energy: (a) $1.5 billion to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels; and (b) $708 million to support preliminary alternative fuels commercialization activities of which: (1) up to $100 million shall be available for project development feasibility studies; (2) up to $100 million shall be available for cooperative agreements with non-Federal entities; and (3) up to $500 million shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, provided that the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1.5 billion. However, DOE does not expect that ESW projects using direct combustion will be supported with these funds to do feasibility studies or to participate in cooperative agreements.

(6) P.L. 96-137 (H.R. 3354) authorizes appropriations for FY80 to the Department of Energy for conservation, development, and use of naval petroleum reserves and naval oil shale reserves.

(7) P.L. 96-294 (S. 932) establishes a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels of crude oil per day by 1987, increasing to at least 2 million barrels per day by 1992. While involving a variety of financial and industrial firms, SFC's initial activities will be designed to increase industrial experience with a wide range of processes, methods, and technologies for commercially producing synfuels from domestic resources.

By June 30, 1984, SFC is required to develop and submit to the Congress a comprehensive strategy to achieve the national synfuels production goals. The comprehensive strategy will include reports on economic, technological, and environmental aspects of synfuels projects granted financial incentives up to that date, and will also present SFC's longer-term objectives and its schedule to achieve them. The plan will emphasize private sector responsibilities and will describe how specific limitations will be placed on SFC's involvement. After consultation with the Secretary of Defense, SFC must consider the feasibility of meeting national defense fuel requirements using synfuels produced by SFC-assisted projects.

Selected provisions of the Energy Security Act are summarized below:

Title I of the Energy Security Act creates an independent, Federal entity called the United States Synthetic Fuels Corporation (SFC), which is authorized to provide several forms of financial assistance to foster the production of synfuels. SFC-supported projects will be designed to convert the Nation's coal, oil shale, and tar sands resources into synfuels which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products, and chemical feedstocks). The SFC also is authorized to assist facilities used solely (1) to produce mixtures of coal and petroleum for direct fuel use, (2) for commercial production of hydrogen from water, and (3) for the commercial production of electricity by a magnetohydrodynamic (MHD) topping cycle.

The financial resources available to SFC over its 12-year lifetime are limited to a maximum of $88 billion. Congressional appropriations to finance SFC's operations are deposited in the Energy Security Reserve of the U.S. Treasury (which was established by the Department of the Interior and Related Agencies Appropriations Act, 1980, P.L. 96-126). The first installment of funding for the SFC, $20 billion, is authorized as of June 30, 1980, subject to appropriations. The second and subsequent installments will be authorized (up to a maximum of $68 billion) by joint congressional resolutions, subject to appropriations.

P.L. 96-304 (H.R. 7542) makes available to the Secretary of Energy an additional amount of $3.31 billion from the $19 billion previously appropriated under P.L. 96-126 to continue funding DOE's Alternative

Fuels Production Program. Of this money, $3 billion is appropriated for the purchase or production of selected alternative fuels by way of purchase commitments or price guarantees, and also for a reserve to cover any defaults from loan guarantees issued under the amendments to the Defense Production Act of 1950 (P.L. 96-294). The remaining $310 million is intended to support a variety of preliminary commercialization activities, including project development feasibility studies and cooperative agreements. All of the funds appropriated under P.L. 96-304 are available until expended.

(Additional bills of the 96th Congress relating to synthetic fuels are listed in the LEGISLATION section of this entry.)

(Paul F. Rothberg, Science Policy Research Division)

SOLAR ENERGY

Major Legislation. Several notable successes in solar energy legislation were scored during the two sessions of the 96th Congress. In terms of near-term impact on consumer acceptance of solar technologies, two measures were particularly significant: P.L. 96-223, the Crude Oil Windfall Profit Tax Act of 1980, included a provision which substantially increased the tax credit for residential and commercial applications of various solar energy technologies. Title V of the Energy Security Act (P.L. 96-294) established a Solar Energy and Energy Conservation Bank to provide federally subsidized loans for solar and energy conservation improvements in homes and businesses. These two Acts were among four legislative proposals submitted to Congress by the Administration to implement the National Energy Plan II.

In other action, wind energy coversion systems (WECS) and ocean thermal energy conversion (OTEC) systems received major emphasis in the 96th Congress as a result of two special goal-oriented R&D enactments: P.L. 96-345, the Wind Energy Systems Act of 1980, provided for an 8-year research, development and demonstration program in wind energy systems which is expected to result in the achievement of installation goals set for both large and small WECS. Similarly, P.L. 96-310, the Ocean Thermal Energy Conversion RD&D Act, established an accelerating OTEC RD&D program designed to meet a national OTEC energy production goal. A related measure (P.L. 96-320, the Ocean Thermal Energy Conversion Act of 1980) established legal procedures for the location, construction, and operation of OTEC facilities and made OTEC facilities eligible for certain financial assistance programs under the Merchant Marine Act of 1936.

Of the approximately two dozen solar and solar-related enactments in the 96th Congress, only three dealt exclusively with solar energy matters (P.L. 96-310, P.L. 96-320, and P.L. 96-345). The remaining bills had varying degrees of solar emphasis, with most treating solar energy matters only peripherally. However, this body of solar-related legislation (which has been growing steadily since the 93d Congress) makes up an important part of overall Federal policy towards solar energy. Three solar-related enactments in the 96th Congress may have particularly significant policy implications for the Federal solar program: (1) P.L. 96-399, the Housing and Community Development Act of 1980, qualifies solar energy installations for certain Federal multifamily insurance programs. This Act also extended the deadline for DOE to issue Building Energy Performance Standards (BEPS), which the solar community generally thought would be detrimental to solar interests if implemented too early, and it made the use of active or passive solar energy systems mandatory in public housing projects where the use of such systems can be shown to be cost effective. (2) P.L. 96-259, which provides for U.S. participation in international banking institutions, included a provision to encourage international banks to promote the development of renewable energy resources for rural communities worldwide. This measure possibly underscores the importance of solar technology development to U.S. foreign policy interest. (3) The potential value of solar energy installations to the military was recognized in annual military construction authorization acts (P.L. 96-125 and P.L. 96-418) which successively loosened restrictions on the use of solar energy systems in military housing.

Solar Funding. Federal support of DOE's direct solar RD&D program leveled off during the 96th Congress while outlays for solar tax credits and support for solar programs in agencies other than DOE increased. The net effect (after inflation) was continued growth in Federal solar spending in the two fiscal years of the 96th Congress. However, the rate of increase was modest compared to the pace achieved in previous Congresses. Without accounting for inflation, the DOE solar budget increased from $549.5 million in FY80 to $599.0 million in FY81; funding for solar tax credits and other agency solar funding went from $350 million to $793 million for total solar budgets of $899.5 million in FY80 and $1392 million in FY81 The tax credits and other agency funding are based on fall 1980 estimates made by the Office on Management and Budget and are expected to be revised downward as better data become available. These estimates include residential and commercial solar tax credit outlays, the gasohol excise tax exemption, the biomass investment tax credit and fuel production credit, and loan guarantee costs for biomass fuel production facilities.

Outlook for the 97th Congress. Even though the 96th Congress passed just two dozen solar or solar-related bills out of approximately 125 introduced, many of the bills which were not enacted were either similar to (or incorporated in) bills that were enacted, or were not taken up in committee. Consequently, the 96th Congress left little unfinished solar business for the 97th Congress to consider. Three failed proposals did, however, receive considerable congressional attention and were lobbied vigorously by solar interests, making them candidates for consideration early in the 97th Congress. These relate to tax credits for passive solar energy systems, direct aid to State local governments for renewable energy resource planning and implement action, and a national goal for renewable energy implementation. With respect to the goal, President Carter dedicated the Nation to a goal of 20% reliance on solar energy by the year 2000, but the goal did not have a legislative mandate. Such a goal was included in several major bills considered in the 96th Congress, but was dropped after the President made his announcement. With the change in administrations, Congress may choose to consider legislation to formalize a solar goal as part of an overall Federal energy strategy.

(Glen Moore, Science Policy Research Division)

WIND ENERGY

Wind is caused by the uneven heating of the Earth's surface by the Sun; thus wind energy is considered a form of solar energy. The energy available in the wind can be harnessed to produce mechanical power for conversion to heat or electrical power. Since the early 1970s, interest has grown in the potential of energy from the wind to help meet U.S. national energy needs. Unlike prior Congresses, the 96th Congress introduced bills specifically concerning wind energy and possible ways to promote its utilization and commercialization. In addition, wind provisions were included in a number of legislative measures to implement Federal energy policy with respect to renewable and unconventional energy sources. For more information on wind legislation, see CRS Issue Brief 80091, Wind Energy. Publication Wind Energy Legislation -- Historical and Current (96th Congress, 1st session). (Also see "Solar Power" immediately above for details on solar legislation and "Solar Power Legislation" below.)

The Congress passed appropriations of $63.4 million for wind energy for FY80 (P.L. 96-69) and $83.7 million for FY81 (P.L. 96-367). (For further information, see LEGISLATION.)

Other legislative measures acted on by the 96th Congress which concern wind were P.L. 96-345 (H.R. 5892), P.L. 96-223 (H.R. 3919), and P.L. 96-375 (H.R. 5278).

Wind Energy Systems Act of 1980

H.R. 5892, the Wind Energy Systems Act of 1980, was approved on Sept. 8, 1980 (P.L. 96-345). The measure calls for the contribution by wind energy conversion systems of 800 megawatts of electric power by the end of FY88. It also establishes an intensive program of research, development, testing, and cost-shared demonstrations to help achieve this goal amd make the industry self-sustaining by FY88. This program is expected to result in the installation of 387 large (greater than 100 kilowatts of electric capacity) and 1,725 small wind machines by 1988. The measure authorizes various forms of Federal assistance including contracts, cooperative agreements, grants, loans, and direct Federal procurements. For purchase and installation of wind machines providing an aggregate of up to 320 megawatts, this legislation provides for loans of up to 75% of the cost.

Crude Oil Windfall Profit Tax

H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1980, was approved on Apr. 2, 1980 (P.L. 96-223) and has significant provisions relating to wind. Specifically, the residential solar tax credit on wind energy systems is raised to 40% of the first $10,000 of expenditures and the business energy tax credit is increased to 15% for wind energy systems. More detailed consideration of additional provisions of this measure is examined in the "Solar Power" section immediately above.

Feasibility Studies on Powerplants and Water Supply Projects

H.R. 5278, authorizing the Secretary of the Interior to start feasibility studies on 25 water resource projects was approved Oct. 3, 1980 (P.L. 96-375). The studies approved by this measure include a wind-hydroelectric project near Medicine Bow, Wyoming. This project will study the feasibility of integrating up to 50 megawatt-sized wind machines with the hydroelectric power system. Total installed capacity for the wind "farm" would be about 100 megawatts and the cost for the 2-year study $8.6 million.

(Barbara Luxenberg, Science Policy Research Division)

LEGISLATION

GASOHOL: THE ALCOHOL FUELS

P.L. 96-107, S. 428

Department of Defense Authorization Act, FY80. House passed version requires DOD to use gasohol in its vehicles to the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices. Signed into law Nov. 9, 1979.

P.L. 96-108, H.R. 4387

Makes appropriations for FY80 for specified agricultural, rural development, domestic food, and international programs of the Department of Agriculture and certain related agencies. Includes $500 million funding for loan guarantees for alcohol fuel production pilot projects. Signed into law Nov. 9, 1979.

P.L. 96-223, H.R. 3919

Crude Oil Windfall Profit Tax Act of 1979. Includes provisions extending the 4 cents per gallon excise tax exemption for gasohol to the year 1992, providing tax credits for straight alcohol fuels simplifying the BATF regulations as they apply to alcohol fuel production, and directing the Secretary of the Treasury to recommend ways to deny tax advantages to imported alcohol. Signed into law Apr. 2, 1980.

P.L. 96-294, S. 932
Energy Security Act. Includes provisions authorizing $1.2 billion for biomass energy programs, to be distributed by the Departments of Energy and Agriculture, setting production goals for alcohol fuels, expanding the alcohol fuels resources of DOE and USDA, and directing that Federal vehicles use gasohol where feasible. Signed into law June 30, 1980.

P.L. 96-493, S. 2251
Amends the Clayton Act to prohibit the direct or indirect restriction by any person engaged in commerce on the use of credit instruments in any transaction concerning the sale, resale, or transfer of gasohol or other synthetic motor fuel, where there is no similar restriction on transactions concerning conventional motor fuel. Prohibits any other condition, restriction, agreement, or understanding which otherwise discriminates against or unreasonably limits the sale, resale, or transfer of gasohol or other synthetic motor fuel. Signed into law Dec. 2, 1980.

P.L. 96-499, H.R. 7765
Omnibus Reconciliation Act of 1980. Includes a provision which establishes a tariff on imported alcohol of 10 cents per gallon in 1981, 20 cents in 1982, and 40 cents thereafter. Signed into law Dec. 5, 1980.

SYNTHETIC FUELS

P.L. 96-126, H.R. 4930
Makes appropriations for FY80 for the Department of the Interior, the Forest Service within the Department of Agriculture, specified programs within the Department of Energy, Indian programs within the Department of Health, Education, and Welfare, and related Federal agencies. Title II of the Act makes appropriations within the Department of Energy for synthetic fuels production; fossil energy research and development; fossil energy plant construction; energy production, demonstration, and distribution; energy conservation; the Economic Regulatory Administration; the strategic petroleum reserve; and the Energy Information Administration. Measure reported to House from Committee on Appropriations (H.Rept. 96-374) July 23, 1972. House passed measure, amended, July 30. Senate reported bill, with amendment, from Senate Committee on Appropriations (S.Rept. 96-363) Oct. 10, 1979. Senate passed bill, amended, Oct. 18. Conference report filed in House (H.Rept. 96-604) Nov. 8. House agreed to conference report Nov. 9, and Senate agreed to conference report the same day. Measure was signed into public law Nov. 27, 1979.

P.L. 96-137, H.R. 3354
Authorizes appropriations for FY80 to the Department of Energy for conservation, development, and use of naval petroleum reserves and naval oil shale reserves. Introduced Mar. 29, 1979; referred to Committee on Armed Services.

Reported to House by Committee on Armed Services (H.Rept. 96-91) on Apr. 9, 1979. Rules Committee Resolution (H.Res. 228) reported to House Apr. 24, 1979. Received in Senate Apr. 26. Senate Committee on Armed Services favorably reported bill with amendments (S.Rept. 96-325) Sept. 19, 1979. Passed Senate with amendment by voice vote on Sept. 27, 1979. Conference report filed in House (H.Rept. 96-596) and in Senate (S.Rept. 96-410) Nov. 8. Senate agreed to conference report Nov. 9, 1979. House agreed to conference report Nov. 28. Measure presented to President Nov. 30 and was signed into law Dec. 12, 1979.

P.L. 96-294, S. 932
Defense Production Act Amendments of 1979 (Senate "synfuels" bill). Establishes a Synthetic Fuels Corporation (SFC), which can provide loan guarantees, purchase guarantees, and guaranteed prices to develop synfuels. In addition, under specified conditions, the SFC can participate in joint ventures and is authorized to own and contract for the construction and operation of synthetic fuels projects. $20 billion authorized for SFC. $1 billion earmarked for basically large size biomass projects.

The Senate bill, as passed, includes the entire text of S. 1775, as amended, providing $5 billion authorization for alcohol fuels production. House passed bill, amended, in lieu of H.R. 3930 June 26, 1979. Reported jointly from Senate Committee on Banking, Housing and Urban Affairs, with amendment (S.Rept. 96-387) Oct. 30, 1979. Reported jointly from Senate Committee on Energy and Natural Resources, with amendment (S.Rept. 96-387), Oct. 30, 1979. Senate agreed to House amendment, with an amendment, roll call no. 396 (65-19) on Nov. 8, 1979. Conference agreement reached. Signed by President into law June 30, 1980.

P.L. 96-304, H.R. 7542
Makes supplemental appropriations and rescinds certain budget authority for FY80. Makes available to the Secretary of Energy an additional amount of $3.31 billion from the $19 billion previously appropriated under P.L. 96-126 to continue funding DOE's Alternative Fuels Production Program. Of this money, $3 billion is appropriated for the purchase or production of selected alternative fuels by way of purchase commitments or price guarantees, and also for a reserve to cover any defaults from loan guarantees issued under the amendments to the Defense Production Act of 1950 (P.L. 96-294). The remaining $310 million is intended to support a variety of preliminary commercialization activities, including project development feasibility studies and cooperative agreements. All of the funds are available until expended. The bill H.R. 7542 was introduced June 11, 1980; referred to Committee on Appropriations. Signed into law July 8, 1980.

SOLAR POWER

P.L. 96-223, H.R. 3919
Crude Oil Windfall Profit Tax Act of 1980. Increased both the residential and business solar tax credits provided under the Energy Tax Act. It increased the residential solar tax credit to a flat 40% on the first $10,000 of expenditures on qualifying equipment, which includes active solar water heating, space heating and cooling, wind energy, photovoltaic and geothermal

energy equipment. The business energy tax credit was increased to 15% (in addition to the standard 10% business investment tax credit), and the list of eligible equipment was broadened to include systems which use solar or wind energy to generate electricity or to provide heating, cooling, or hot water in a structure; ocean thermal energy equipment for two experimental sites; and equipment which uses solar energy to provide industrial, agricultural, or commercial process heat. The business energy credit is nonrefundable but has a 3-year carryback/7-year carryforward provision. The Act eliminated "double-dipping" for both residential and business credits by reducing qualifying expenditures by the amount that the property is financed with grants or subsidized energy loans in the case of homes, and subsidized loans or tax-exempt industrial development bonds in the case of businesses. Signed into law Apr. 2, 1980.

P.L. 96-310, H.R. 7474

Ocean Thermal Energy Conversion Research and Development Act. Provides for an accelerated research and development program to achieve early applications of ocean thermal energy conversion (OTEC) systems. Authorizes $75 million to DOE in FY82. Establishes a goal of 10,000 megawatts of energy production from OTEC facilities in 1979. Signed into law July 17, 1980.

P.L. 96-320, S. 2492

Ocean Thermal Energy Conversion Act of 1980. Establishes a legal regime which will permit and encourage the development of OTEC as a commercial energy technology. Makes OTEC facilities eligible for certain financial assistance programs under the Merchant Marine Act of 1936. Introduced Mar. 27, 1980; referred to Committee on Commerce, Science, and Transportation. Committee reported bill, with amendment (S.Rept. 96-721) May 15. Passed Senate, amended, July 2. Passed House in lieu of H.R. 6154 July 21, 1980. Enacted into law Aug. 3, 1980.

P.L. 96-345, H.R. 5892

Wind Energy Systems Act of 1980. Calls for the contribution of wind energy conversion systems of 800 megawatts of electric power by the end of FY88. Also establishes an intensive program of research, development, testing, and cost-shared demonstrations to help achieve this goal and make the industry self-sustaining by FY88. This program is expected to result in the installation of 387 large (greater than 100 kilowatts of electric capacity) and 1,725 small wind machines by 1988. The measure authorizes various forms of Federal assistance including contracts, cooperative agreements, grants, loans, and direct Federal procurements. For purchase and installation of wind machines providing an aggregate of up to 320 megawatts, this legislation provides for loans of up to 75% of the cost. Measure was signed into law Sept. 8, 1980.

P.L. 96-375, H.R. 5278

Authorizes the Secretary of the Interior to start feasibility studies on 25 water resource projects, includes a wind-hydroelectric project near Medicine Box, Wyoming. This project will study the feasibility of integrating up to 50 megawatt-sized wind machines with the hydroelectric power system. Total installed capacity for the wind "farm" would be about 100 megawatts and the cost for the 2-year study $8.6 million. Signed into law Oct. 3, 1980.

Moore, Glen

ENVIRONMENTAL PROTECTION

MLC-032

BARRIER ISLAND PROTECTION

...limit unwise development...

Is congressional action needed to limit unwise development on barrier islands, which are both hazardous and fragile?

Barrier islands are being developed rapidly, especially along the Atlantic and Gulf coasts. These islands are of high value for recreational, tourist, and vacation activities. In many rural coastal counties, development is concentrated along the shoreline and on the barrier islands.

But barrier islands are hazardous areas. They are made up of unconsolidated and shifting sands, easily modified by wind and waves. Since 1900, 53 hurricanes with winds in excess of 100 miles per hour and storm surges greater than 8 feet have crossed the Atlantic and Gulf coasts, causing extensive damage. Barrier islands, as the first coastal line of defense, protect inland areas from storm surges but are themselves modified by the forces of these storms. Developers, as part of building on barrier islands, attempt to stabilize the islands. Stabilization decreases an island's ability to respond to storm winds and waves and increases the hazard to island residents and mainland areas that were better protected in the past.

Barrier islands are expensive to develop. Bridge access and public services are usually provided with Federal funds. Between 1976 and 1978, an estimated $500 million in Federal funds helped support development for barrier islands. Many of these investments contribute, directly or indirectly, to island alterations that expose public and private investments to natural hazards. One policy question is "should these incentives be halted?"

The second major question is: Should the Federal Government take some positive steps to halt unwise development? For instance, should the Federal Government or State and local governments halt development on islands, which includes unstable beach systems, that are neither developed yet nor protected, and thereby limit future increases in exposure to hazards? A study by the National Park Service has mapped 184 such areas. The greatest number, 40 units, are located in Massachusetts, and the largest area, 248,000 acres, is in Texas.

Action to protect these islands becomes more pressing with each hurricane season. Hurricanes David and Frederick, both striking last year, and, more recently, Hurricane Allen, are reminders of the potential for major coastal destruction with a higher loss of life and property if no action is taken.

Legislation pertaining to barrier island protection was introduced in the 96th Congress. In the Senate, S. 2686 was passed out of two committees (Energy and Natural Resources and Environment and Public Works) but received no floor action. The House bill, H.R. 5981, was not passed out of the Committee on Interior and Insular Affairs. Interest in this issue is expected to carry over into the 97th Congress.

Zinn, Jeff

MLC-033

ENVIRONMENTAL PROTECTION AGENCY PROGRAMS: CONGRESSIONAL ACTIONS

..."superfund" to clean up hazardous wastes passes...

The environmental protection activities of the 96th Congress were dominated by three issues: reauthorizations, oversight of regulations and their impacts on energy and the economy, and creation of a "superfund" to pay for the cleanup of hazardous waste sites and spills.

(1) Authorizations for several statutes expired during the 96th Congress, including the Toxic Substances Control Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Safe Drinking Water Act; the Marine Protection, Research and Sanctuaries Act; certain provisions of the Federal Water Pollution Control Act; and the Solid Waste Disposal Act. Also, environmental research and development is authorized annually. The reauthorization bills moved rather slowly, but final congressional action occurred on all of them except TSCA.

(2) Environmental regulation oversight has concerned both the impacts of regulations, particularly on the economy and on energy supplies, and the adequacy of enforcement. For example, the Senate Subcommittee on Environmental Pollution held hearings on the White House Regulatory Review of Environmental Regulations and on the cooperation of the Environmental Protection Agency and the Department of Justice in enforcement. Regarding the environment as it relates to energy issues, the key issue concerned the environmental implications of various energy "fast track" bills (S. 1308 and H.R. 4985) designed to speed up (or, in some cases, even waive) environmental reviews of proposed energy projects. This legislation died when the House rejected the conference report on S. 1308.

(3) A number of bills were introduced on the issues of oil spill/hazardous substances spill liability and compensation, and of the cleanup of abandoned waste sites containing hazardous materials. These bills were known as "superfund" legislation. Key issues included: What kinds of pollution incidents should be covered? Who should pay how much into the cleanup fund? What provisions of liability should be imposed on dischargers? In the last days of the 96th Congress, the Senate passed a compromise version of superfund, which the House subsequently approved and President Carter signed as P.L. 96-510. As enacted, the legislation sets up a 5-year, $1.6 billion fund, financed 87.5% by levies on certain industrial chemicals and chemical feedstocks. It covers abandoned waste sites and spills or releases of toxic materials that pollute navigable waters, groundwater, or the land. Oil spills are not included. Liability rests with disposers, but joint and several liability and a Federal cause of action language was excluded. Third-party damages and occupational exposure are not included.

Finally, EPA's FY80 budget authorization (H.R. 4394) was signed into law (P.L. 96-103) on Nov. 5, 1979. Supplemental appropriations for FY80 (H.R. 7542) became law on July 8, 1980 (P.L. 96-304). EPA's FY81 authorization bill, H.R. 7631, was signed into law (P.L. 96-526) on Dec. 15, 1980.

On Aug. 2, 1979, President Carter delivered to the Congress his second "American Environmental Policy" message (H.Doc. No. 96-174). A major theme of the message concerned the energy/environment relationship; President Carter noted that he is "pledged to be sensitive both to energy needs and to environmental considerations," but he also said, "we will not lose sight of our other goals but we must not fail in ending the energy crisis." He proposed a series of new initiatives in land and resource management, agricultural conservation, urban quality, and improving the global environment.

SUPERFUND. The "superfund" concept emerged in the 94th Congress as a result of two concerns: one was the lack of assured funding for the response to and cleanup of oil and hazardous substance spills and of discharges from abandoned waste sites that threaten health and the environment; the second concern was the questionable adequacy of existing mechanisms by which victims of pollution could be compensated for damages. At the end of the 95th Congress, comprehensive oil pollution liability and compensation bills died because of controversies over whether to include hazardous substances spill provisions.

In the 96th Congress, action resumed on bills to provide Federal authorities to define liability and to establish funds for cleanup and for compensation of victims of oil spills, hazardous substances spills, and other sources of pollution such as abandoned waste sites. Incidents such as the abandoned waste disposal sites at the "Valley of the Drums" in Kentucky and at Love Canal, Niagara Falls, N.Y., gave impetus to these concerns.

Key superfund issues that emerged early in the session included: (1) whether legislation should be comprehensive, as proposed by the Administration, or split to treat each type of pollution problem separately; (2) how large the superfund should be and how it should be financed (proposals were widely divergent on the appropriate Federal and industry shares and on alternative fees on oil, chemical feedstocks, and wastes); (3) what kinds of compensation to provide victims of pollution incidents; and (4) how to specify liability, with proposals including no changes in current law; strict liability standards with joint, several, and proportional liability for damages; and establishment of a Federal cause of action for damages.

In the House, the superfund proposals were divided among several committees and bills. The House Merchant Marine and Fisheries Committee reported H.R. 85 (H.Rept. 96-172, Part I) in May 1979. It dealt with the liability for and cleanup of oil spills only. Referred to the House Public Works Committee, it was reported (H.Rept. 96-172, Part II) on May 16, 1980, with an amendment adding a fund covering hazardous substances spills (as defined by the Federal Water Pollution Control Act). Subsequently referred to the House Ways and Means Committee, it was reported for the third time on June 20, 1980 (H.Rept. 96-172, Part III). The House passed H.R. 85 on Sept. 19, 1980.

Meanwhile, the House Interstate and Foreign Commerce Committee was dealing with legislation, H.R. 7020, concerning hazardous substances released from abandoned waste sites. On May 19, 1980, the Committee reported H.R. 7020 (H.Rept. 96-1016), providing for a $600 million fund, one-half supported by fees on industry. Referred to the Ways and Means Committee, it was reported again on June 20, 1980 (H.Rept. 96-1016, Part II) with the fund doubled to $1.2 million, three-fourths coming from industry levies.

In summary, the bills passed by the House established three funds: $370 million for oil, $370 million for hazardous substances spills, and $1.2 billion for abandoned waste sites -- with industry levies contributing 100%, 100%, and 75%, respectively. Some new liability requirements were imposed, including joint and several liability in certain cases under both H.R. 85 and H.R. 7020. No compensation for third-party damages was included.

In the Senate, the Environment and Public Works Committee was considering a comprehensive approach that stressed new and stricter liability requirements -- with the view that ultimately these requirements would lead potential dischargers to exercise greater care in preventing pollution. As reported (S.Rept. 96-848), the legislation, S. 1480, established a $4.1 billion fund, financed over six years by fees on industry (87.5%) and appropriations (12.5%). The allocation of fees among chemicals was intended to reflect the degree to which they result in the generation of hazardous wastes. Virtually any discharge or release of a toxic material or hazardous waste was covered, except that oil was excluded.

Two-thirds of the fund was available to cover governmental costs of emergency action and long-term remedy; one-third was available for third-party damages resulting from contamination incidents. Short-term responses included such steps as evacuation and emergency containment. Long-term responses included relocation of residents and permanent chemical containment, removal, or treatment. The fund also covered medical costs; property losses; lost wages; loss of natural resources; and costs of expert witness fees, health studies, and diagnostic examinations.

S. 1480 also contained numerous extensions of liability law. Parties held responsible for an incident involving the release of hazardous chemicals were held liable on a "no fault" basis under Federal law for all government response costs and for specified third-party damages. Victims were provided access to Federal courts to seek compensation for damages. The liability provisions pertained equally to natural resource losses as well as to personal injury. S. 1480 imposed strict, joint, and several liability on owners and operators of vessels and facilities releasing hazardous substances.

The size of the S. 1480 fund and its innovative liability provisions generated considerable opposition. The bill was held from the floor pending resolution of questions raised by the Finance and Commerce Committees. In November, with the 96th Congress winding down, the Senate abandoned S. 1480 as reported and passed a substitute, similar to H.R. 7020, establishing a cleanup fund but excluding victim compensation and nearly all of the new liability provisions.

The compromise bill, passed by the Senate on Nov. 24, 1980, as an amendment to H.R. 7020, established a $1.6 billion fund, financed over five years by fees on industrial chemicals and feedstocks (87.5%) and appropriations (12.5%). The bill covers any spills or releases of chemicals or hazardous wastes into the environment, except that oil spills are not covered. EPA is to designate 100 top priority sites for cleanup, with at least one site in each State.

The bill gives the President broad authority to use the fund for cleanup and for unspecified long-term remedial actions. No funds are available for compensating victims of pollution. But it does provide for epidemiological studies, chromosomal screening, and a registry of persons exposed to hazardous substances to allow for health studies and diagnostic services. These programs would be carried out by a new "Agency for Toxic Substances and Disease Registry" located in the Public Health Service.

On liability, the compromise makes those responsible for hazardous wastes pollution and spills liable for the entire cleanup costs, with a limit of $50 million on each incident of damage to natural resources owned by the Federal Government. The government would not have to prove a company acted negligently in order to sue a company and collect cleanup costs. The only property damages covered by the bill are for government-owned property. Persons injured by chemical wastes would have only existing law through which to seek redress; language creating a "Federal cause of action" so victims could sue in Federal courts to recover damages was deleted.

In addition, the bill sets up a $200 million "Post-Closure Liability Fund" to cover costs that might arise from dumps permitted and closed under the Resource Conservation and Recovery Act. Also, it creates an EPA Assistant Administrator for Solid Wastes.

Finally, the bill provides for a "legislative veto" of government regulations issued under the legislation.

The House passed H.R. 7020, as amended by the Senate compromise, on Dec. 3, 1980. President Carter signed the measure into law on Dec. 11, 1980 (P.L. 96-510).

OIL SPILLS. To promote the timely cleanup of oil spills and to compensate the victims of oil pollution adequately, a number of Federal and State programs have been established. No single statute, however, covers all situations in an equitable fashion. The 95th Congress took up comprehensive oil pollution liability and compensation bills, but they died at adjournment because of controversies over whether to incorporate hazardous spill provisions with oil spills. The June 1979 Campeche oil spill in the Gulf of Mexico intensified interest in this issue.

In the 96th Congress, action continued on bills to provide Federal authorities to define liability and to establish funds for cleanup and for compensation of victims of oil spills. The question recurred on whether to combine these bills with other bills concerning hazardous substances spills and abandoned waste sites. The Administration proposed comprehensive legislation.

The House Merchant Marine and Fisheries Committee reported (H.Rept. 96-172, Part I) H.R. 85 in May 1979. H.R. 85, dealing only with oil spills, set up a $200 million fund based on a levy of up to 3 cents per barrel of oil. It incorporated provisions concerning oil spills from the Federal Water Pollution Control Act, Trans-Alaska Pipeline Authorization Act, Intervention on the High Seas Act, and Outer Continental Shelf Lands Act. It established liability standards and set limits for vessels and facilities. The fund covered removal costs, natural resources damages and rehabilitation, property damage, and loss of income and revenues.

H.R. 85 was then referred to the Public Works Committee, which reported it (H.Rept. 96-172, Part II) with an amendment adding a provisions covering hazardous substances spills. The Ways and Means Committee then considered the bill's financing provisions, and reported it (H.Rept. 96-172, Part III) with an amendment setting up a tax to support the funds, which were increased. The tax on oil was projected to raise approximately $370 million over five years.

The House passed H.R. 85 on Sept. 19, 1980.

Meanwhile, the House Public Works Committee also reported (H.Rept. 96-956) a bill, H.R. 5338, authorizing $80 million for compensation of damages resulting from the Campeche oil spill in the Gulf of Mexico. The committee report noted that if H.R. 85 were law, then H.R. 5338 would not be necessary. The House passed H.R. 5338 on June 16, 1980.

In the Senate, however, oil spill liability and compensation was left out of the "superfund" legislation, S. 1480, and H.R. 85 and H.R. 5338 died without receiving any Senate action. On Dec. 2, 1980, Senator Stafford, who is in line to chair the Senate Environment and Public Works Committee in the 97th Congress, commented that an "oil spill superfund" will be "an early priority of the Committee" in 1981 (Congressional Record, Dec. 2, 1980: S15276).

WATER. The Clean Water Act was amended substantively in 1977 in three broad areas: extending construction grant authorization for 5 years, control of toxic pollutants, and modification of certain of the Act's deadlines (P.L. 95-217). Several areas of water quality control received attention from the 96th Congress: the construction grants program, nonpoint sources of pollution, and control of toxic chemicals.

Problems continue to plague the grant program for aiding construction of municipal wastewater treatment plants. The rate of obligating funds to projects has been slow, and there was interest in extending the allowable obligation period from 24 to 36 months, so that States would not lose funds through reallotment at the end of the fiscal year. On Dec. 19, 1979, the House passed a bill, H.R. 4113, to provide such an extension for FY79 funds and to provide additional funds to certain States.

In October and November 1979 the House Public Works Subcommittee on Oversight and Review held hearings on the municipal wastewater construction grant program. Witnesses discussed the problems of erratic funding which have troubled the program, as well as the many Federal laws, Executive Orders, and other rules with which municipalities must comply.

The Water Act's requirements for areawide planning to control both point and nonpoint pollution have been criticized for reasons of inadequate technical information, discontinuity in funding levels, late issuance of guidance from EPA, and the generation of numerous Federal-State and State-local conflicts. Failure to control nonpoint pollution could prevent more than two-thirds of the States from achieving the Act's 1983 goal of "fishable and swimmable" water. The House Public Works Subcommittee on Oversight and Review held 4 days of hearings on the subject in July 1979.

Because of the Federal funds involved with these construction projects (75% of total project costs in most cases), questions were raised about the cost-effectiveness of constructing high-technology, capital-intensive advanced wastewater treatment systems. Some suggested that the water quality benefits of such costly expenditures will be more than offset by continuing problems of uncontrolled nonpoint pollution.

In mid-1980 the House Public Works Subcommittee on Oversight and Review held oversight hearings on EPA's implementation of section 307 of the Act, concerning regulation of toxic discharges by industries and municipalities. Witnesses discussed the administrative resources required to carry out the current program and options for revising that program, such as an approach based on water quality standards. EPA officials stated that insufficient scientific information exists to support shifting away from today's pollutant-specific method of regulation.

Finally, on Oct. 1, 1980, Congress passed legislation (S. 2725, P.L. 96-483) repealing the industrial cost recovery provision of the Act. The bill also terminates Federal grant assistance to municipalities for treatment of industrial discharges after Nov. 15, 1981. P.L. 96-483 contains other major provisions: reauthorization of several sections of the law that expired in FY80, including grants to States; extension of the allotment period of FY79 construction grant funds for an additional year; and authorization of $20 million in construction grant monies to clean up PCBs in the Hudson River.

[Note: Bills concerning oil spill/hazardous substances liability, some of which addressed section 311 of the Clean Water Act, are discussed under *SUPERFUND* and *OIL SPILLS*.]

For further information on water pollution, see the following issue briefs: IB79091 -- Water Quality; IB80049 -- Municipal Pollution Control; and IB77071 -- Toxic Contaminants in Water.

DRINKING WATER. Reauthorization of the Safe Drinking Water Act in the 96th Congress was the occasion for examining the costs of compliance with EPA regulations. Some local governments have argued for Federal assistance; the Carter Administration was opposed to a new multi-billion dollar program. Availability of water supplies to rural areas and contamination of groundwater resources were also issues, as was regulation of underground injection of oil and natural gas. The House Commerce Subcommittee on Health and Environment held oversight hearings on the Act, focusing on the problems of small communities in complying with the law and regulations. On Sept. 23, 1980, the House passed a bill (H.R. 8117) providing for 3-year extensions of exemptions from the Act's interim drinking water regulations and deleting storage of natural gas from the Act's underground injection control program. The Senate passed H.R. 8117 on Nov. 19, after the Committee on Environment and Public Works was discharged from consideration of the bill. President Carter signed the measure Dec. 5, 1980 (P.L. 96-502). For further information on this issue, see IB78074 -- Safe Drinking Water.) Problems of groundwater contamination also were examined in several hearings held by the House Government Operations Subcommittee on Environment, Energy and Natural Resources.

OCEAN DUMPING. The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) contains three titles: regulation of ocean dumping, research, and establishment of marine sanctuaries, respectively. Legislative activities concerned all three, each of which required extension of authorizations.

The ocean dumping issue is in the calm before the storm. In the 96th Congress, the major legislative activity was extending authorizations. However, the 95th Congress outlawed ocean dumping of sewage sludge after Dec. 31, 1981. While alternatives are being examined, the deadline is unlikely to be met, at least by several localities in the New York area. Furthermore, some persons are calling for a re-examination of the no-dumping decision, saying ocean disposal is safer than land disposal in some cases; others are trying to expand the dumping ban to include other materials.

Ocean dumping and other marine research is authorized by MPRSA and by the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978. An extension of authorizations for the latter has been enacted (P.L. 96-17).

Reauthorization of Title I EPA permit programs is the subject of S. 1148. This two-year authorization, $2 million each for FY81 and FY82, passed by both Houses, and now awaiting the President's signature, includes special provisions to assist New York City in studying technical options for removal of heavy metals and other toxic organics from New York City sewage sludge. The Title II Research reauthorization (S. 1123) became P.L. 96-381 on Oct. 6, 1980, and authorized $23.4 million in FY81 and FY82 for effects research. Additionally, the reauthorization clarified the responsibility of the National Oceanic and Atmospheric Administration for research on the effects of oil spills. For further information on this issue, see Issue Brief IB77067 -- Sludge: Disposal and Use.

AIR. Major amendments to the Clean Air Act were enacted in 1977 (P.L. 95-95). Controversies over the statutory requirements and deadlines have remained, however, and as implementation progressed, legislative adjustments were being proposed. Of particular concern were possible constraints on economic growth and the siting of new facilities, particularly those that produce energy; fuel-related problems; and the prospect of sanctions for non-compliance, especially in the form of the EPA's withholding Federal financial assistance to States. Under the Act, all States were to have revised their State Implementation Plans for air pollution control by July 1, 1979, a deadline only one State met in full. The House Subcommittee on Health and the Environment held hearings on the issue on July 30. H.R. 1150 proposed that the deadline be extended EPA requirements relative to State Implementation Plan (SIP) revisions also were challenged in court, resulting in the first major decision on implementation of the 1977 Amendments. On June 18, 1979, the U.S. Court of Appeals for the D.C. Circuit overturned a number of substantive provisions of the statute in major respects, all but one reinforced by its final decision on Dec. 14, 1979.

It invalidated (a) EPA's definition of a major emitting source that is subject to Prevention of Significant Deterioration (PSD) regulations, (b) the Agency's exemption of smaller facilities from PSD regulations, and (c) its definition of "modification" of a source. The court also ruled in December that PSD regulations would apply only to sources located in clean air areas. As a result, EPA proposed amendments to its PSD regulations and to requirements that affect new industrial growth in nonattainment areas as well.

In order to facilitate economic growth in areas that have failed to meet the prescribed air quality standards, H.R. 7050 proposed to modify preconstruction requirements for new facilities intended to replace obsolete plants, provided the new installation had the same rated capacity and the same allowable emission rates. And in order to protect complying industrial installations from new outlays if stricter regulations required additional controls, H.R. 8269 proposed to absolve such major stationary sources from adherence to more stringent emission limitations for ten years from the date of compliance.

The constitutionality of EPA's insistence that a State adopt an inspection/maintenance (I/M) program in a "nonattainment area" (one that cannot attain ambient air quality standards for automobile-generated pollutants by other means) was challenged by Colorado. In January 1980 the State's legislature charged that EPA had violated States' rights by threatening Federal funding sanctions to force it to adopt an I/M program. Later, the governor of Colorado stated that EPA had not violated State authority, but urged that the U.S. Circuit Court of Appeals establish guidelines for EPA's administration of the Clean Air Act without violating States' rights. The practicality of State inspection/maintenance programs also was challenged in the light of current certification methods and lack of information regarding the programs' efficacy in contributing toward the attainment of ambient air quality standards. Several bills were introduced that called for a repeal of mandatory inspection/maintenance programs in nonattainment areas or for a suspension of the requirement until automobiles are tested and certified individually (H.R. 6444, H.R. 6472).

P.L. 95-95 also created a National Commission on Air Quality, charged with examining the strategies and impacts of the Clean Air Act's provisions. Originally slated to complete its work in 1980, the Commission's mandate was extended to May 1981 by P.L. 96-300. Its final report is due in March 1981. In view of increasing concern that clean air legislation impacted excessively on national energy and economic programs, the Commission expanded its investigations to include an examination of the Act's impact on energy policies and of its adaptability to control new pollutants. The Commission also embarked on a benefit analysis project and on an assessment of EPA's standard-setting process.

In a related issue area, the problem of asbestos emissions from insulating tiles in school buildings and from hand-held hairdryers received congressional attention. H.R. 3282 was reported on May 15 (H.Rept. 96-197) and passed the House on Dec. 13, 1979. In the Senate, S. 1658 was passed on May 22, 1980. The Senate bill, providing technical assistance and loans, was signed into law (P.L. 96-270) June 16, 1980.

Another area of increasing concern was acid precipitation, which results from the transformation of sulphur and nitrogen oxides emitted by coal-burning facilities and other sources. The increased acidity has been blamed for the disappearance of fish from lakes in the Adirondacks and elsewhere, and it may be associated with forest and crop damages and the corrosion of building materials. These allegations, however, have been questioned in some quarters. In order to gain a better understanding of the problem, Congress opted for additional studies. Title 10 of P.L. 96-294, the Energy Security Act, provided for a 10-year, $50 million interdepartmental task force study of acid rain. Meanwhile, the U.S. and Canada took the first concrete step to combat transboundary pollution. They signed a Memorandum of Intent on Aug. 5, 1980, which set in motion a bilateral process to deal with the problem and to take interim action under current authority pending the conclusion of a formal agreement. Interim measures include mutual commitments to develop domestic air pollution control policies, enforce existing laws, increase advance notification of proposed actions that could result in transboundary pollution, and conduct cooperative monitoring programs. For further information see the following issue briefs: IB80078 -- Clean Air Act: An Overview; IB77052 -- Agriculture: Impact of Air Pollution; and IB80022 -- Acid Precipitation: A Serious and Growing Environmental Problem.

SOLID WASTES. The Resource Conservation and Recovery Act of 1976 (RCRA) was reauthorized by P.L. 96-482. The law extends RCRA through FY82 and makes several amendments. Penalties for violating the hazardous waste provisions of the law are increased, and a new felony for knowingly endangering human life when disposing of hazardous wastes is created. An interagency committee to coordinate Federal resource conservation and recovery efforts is created. EPA's regulation of oil and gas drilling muds and brines is suspended until the Agency studies the situation; subsequent regulation is subject to congressional approval. EPA's regulation of the other "special wastes" is suspended until studies are performed. $20 million is authorized for a State inventory of hazardous waste dumps. A deadline of May 1, 1981, is set for developing the guidelines for Federal procurement of goods with recovered materials under section 6002. For FY80-82 a total of $514.5 million is authorized, and $36 million is authorized for FY83-85 for certain State and local grant programs. The bill, S. 1156, passed the Senate on June 4, 1979 (S.Rept. 96-172); and passed the House on Feb. 20, 1980, amended, in lieu of H.R. 3994 (H.Rept. 96-191). The conference report (S.Rept. 96-1010) passed the Senate Oct. 1, and the House Oct. 2, 1980.

H.R. 7020, a bill establishing a Federal program for responding to releases of hazardous wastes from inactive sites that endanger public health or the environment passed the House on Sept. 23, 1980 (H.Rept. 96-1016, parts I and II). It set up a $1.2 billion fund, with industry fees paying three-quarters. Meanwhile, H.R. 85, dealing with oil and hazardous substance spills in water, passed the House on Sept. 19, 1980 (see the section on oil and hazardous substances, above).

On the Senate side, S. 1480 was reported from the Environment and Public Works Committee on June 27, 1980. It contained new and stricter liability requirements, and called for a $4.1 billion fund financed over 6 years by industry (87.5%) and Federal appropriations (12.5%). Two-thirds of the fund was to cover emergency response and other longer-term remedies; the remainder was to be available to victims. Review by the Commerce and Finance Committees held up the bill until Nov. 18. When it became obvious after the election that the broad approach contained in S. 1480 was incapable of passage, a substitute version similar to H.R. 7020 was worked out, establishing a cleanup fund but abandoning victim compensation and nearly all of the new liability provisions. The compromise established a $1.6 billion fund raised over 5 years by fees on industry (87.5%) and by appropriations (12.5%); only spills or releases of chemicals and hazardous wastes are covered -- oil is excluded. The revised H.R. 7020 passed the Senate on Nov. 24, 1980; passed the House on Dec. 3, 1980; and was signed by President Carter on Dec. 11, 1980 (P.L. 96-510).

The Used Oil Recycling Act of 1980, S. 2412, was passed by the Senate on Oct. 1, 1980, after the House passed the bill the previous day. The measure authorizes $5 million in each of FY82 and FY83 for grants to States to implement programs for collecting and recycling used lubricating oil. Containers of oil are required to bear a message encouraging recycling, and the existing Federal Trade Commission rule requiring that recycled oil be labeled "used" was voided. The EPA was directed to issue rules on the uses of recycled oil, including incineration and road-spreading for dust control. EPA is also to determine within 90 days whether used oil is a hazardous waste within the meaning of section 3001 of RCRA; in making its determination EPA is to ensure that the recovery and reuse of oil is not discouraged. S. 2412 first passed the Senate Aug. 18, 1980 (S.Rept. 96-879) and authorized $25 million a year for 5 years. The House passed a $10 million version on Sept. 30 (H.Rept. 96-1415), which the Senate accepted. It was enacted as P.L. 96-463. For further information on this issue, see the following issue briefs: IB74076 -- Nonreturnables: The Bottle Bills; IB75036 -- Waste Oil Re-refining; IB77067 -- Sludge: Disposal and Use; IB79088 -- Environmental Protection: Hazardous Wastes; and IB77019 -- Toxic Substances Contamination: Compensation Issues.

TOXIC SUBSTANCES IN THE ENVIRONMENT. Authorizations under the Toxic Substances Control Act (TSCA) expired at the end of FY79. In considering reauthorization, Congress closely reviewed EPA's implementation of TSCA, as many of its proposed rules have been delayed and are proving highly controversial. Numerous reauthorization/oversight hearings have been held. In the first session, bills for reauthorizations were reported in the House (H.R. 2606) and passed in the Senate (S. 1147, a 3-year reauthorization), but no further action occurred. In the second session, the House Committee on Interstate and Foreign Commerce reported a new bill, H.R. 7126 (H.Rept. 96-968), to extend TSCA authorizations through FY81 and 82 and also to provide $2 million for an EPA-Office of Technology Assessment study of compensation issues.

Disclosures of instances in which corporate officials remained silent after they were informed of company practices causing environmental contamination have led to the introduction of legislation, H.R. 4973. This measure would impose criminal penalties on corporate officials who knowingly conceal from the Government information that may show that exposure to or use of a company product may pose an environmental or health hazard.

Finally, whether the export of goods hazardous to health should be restricted became an issue. Hearings were held on H.R. 6587.

In a related area, legislation (S. 1658) was enacted (P.L. 96-270) to provide technical assistance and loans for the mitigation of asbsestos hazards in schools. For further information on these issues, see the following issue briefs: IB75051 -- The Toxic Substances Control Act: Implementation; and IB78050 -- The Toxic Substances Control Act: Testing Issues. See also IB77019 -- Superfund.

PESTICIDES. The Federal Insecticide, Fungicide, and Rodenticide Act was amended in 1978 (P.L. 95-396) in an attempt to resolve several problems that had emerged in implementing the Federal Environmental Pesticide Control Act of 1972, which rewrote FIFRA. At that time, authorizations were extended only through FY79. Oversight hearings of EPA's implementation of its pesticide program were held in late April 1979 by both the House Subcommittee on Oversight and Investigations and the Senate Subcommittee on Agricultural Research and General Legislation. On May 22, 1979, the Senate approved S. 717, a simple 1-year extension through 1980 of FIFRA's authorizations; the $62,250,000 authorization included $9,700,000 for research. The House Agriculture Committee approved a 1-year extension on May 3, 1979 (H.R. 3546) for $60,250,000, which also included research funding and contained an additional $6 million for EPA's 50% cost-sharing of States' pesticide applicator training and certification program. The House Committee also adopted three other amendments providing for (a) the use of the pesticide mirex for fire-ant control in the next two years; (b) a congressional veto of EPA pesticide regulations; and (c) termination of FIFRA's authorizations on Sept. 30, 1985. Because conferees were unable to come to agreement on the one-house veto of FIFRA regulations, the conference was adjourned, thus ending action on that legislation. Funding for EPA's pesticides program continued under the Agency's FY80 appropriations bill, however.

Bills authorizing funds for FIFRA for FY81 were reported in May 1980. The Senate Committee on Agriculture and Forestry reported S. 2587, authorizing funds for FY81 (S.Rept. 96-764). The House Committee on Agriculture reported H.R. 7018, authorizing funds for FY81 (H.Rept. 96-1020). After the bill was amended to include a congressional veto provision, it was passed by the House on July 24, 1980. The Senate passed H.R. 7018, amended, on July 24. A conference committee approved H.R. 7018 on Sept. 30, 1980. The final bill authorized $72.16 million for FY80 and $77.5 million for FY81; provided additional authority concerning scientific review of decisions; and set up procedures for congressional vetoes of EPA's pesticide regulation. The Senate agreed to the conference report on Dec. 1, 1980, and the House agreed to it on Dec. 4. President Carter signed it on Dec. 17, 1980, as P.L. 96-539.

In addition, several of EPA's regulatory decisions have been highly controversial -- particularly the suspension of many uses of the herbicide 2,4,5-T, which contains a highly toxic contaminant, dioxin, although at very low levels. One result has been the introduction of legislation to require a National Academy of Sciences review of EPA's policies on evaluating carcinogenicity and other hazards of pesticides (H.R. 2982).

The 2,4,5-T/dioxin problem led to other action, too. There have been allegations that Vietnam veterans have suffered adverse health effects from exposure to 2,4,5-T, used as an ingredient in the defoliant Agent Orange and that some women have suffered miscarriages from domestic forestry uses of the herbicide in the Pacific Northwest. Congress passed S. 2096, directing HEW to conduct an epidemiological study to determine the long-term adverse health effects of persons exposed to dioxins. President Carter vetoed the bill on Jan. 2, 1980, because an Agent Orange study was authorized by section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979 (P.L. 96-151). For further information on this issue, see the following issue briefs: IB77074 -- Pesticides: An Overview; IB76062 -- Kepone Pollution: Summary Review (now archived).

NOISE. Legislation dealing with aircraft noise was enacted by the 96th Congress. The major bills were H.R. 3942, the Aviation Safety and Noise Reduction Act, and S. 413, the Aviation Safety and Noise Abatement Act, both easing the existing FAA regulations that require that older, noisier jets not previously covered by noise regulations be either quietened or retired by 1985. S. 413 passed the Senate May 1, 1979, and then on Oct. 22, 1979, was inserted in H.R. 2440, amendments to the Airport and Airway Development Act of 1970. After a conference (H.Rept. 96-715) the bill was approved by the House on Jan. 31, 1980, and by the Senate on Feb. 5, 1980. It was signed (P.L. 96-193) on Feb. 18, 1980.

P.L. 96-193, the Aviation Safety and Noise Abatement Act of 1979, directs the Secretary of Transportation to establish a single system of noise measurement. It exempts 2- and 3-engine aircraft from compliance with noise standards under certain conditions. For further information on this issue, see issue brief IB79071 -- Aircraft Noise Abatement.

With regard to noise other than aircraft noise, legislation that would extend the Noise Control Act authorization for FY80 and FY81, providing funding for the activities of the Environmental Protection Agency in the field of noise control, was considered by the 96th Congress: H.R. 3995 and S. 1144. S. 1144 passed the Senate on June 14, 1979, and passed the House, amended, in lieu of H.R. 3995 on Feb. 12, 1980. On Mar. 25, 1980, the Senate passed S. 1144 with amendments and asked for a conference, which the House agreed to on May 8, 1980. The conference committee met on June 10, 1980, but failed to reach agreement. No further action occurred.

ENVIRONMENTAL RESEARCH AND DEVELOPMENT. Environmental R&D conducted by EPA is annually authorized separately from the Agency's other authorities. Similarly, various R&D programs may also be addressed specifically, such as environmental monitoring. Legislation authorizing funds for FY80 has been enacted (P.L. 96-229). Also, a bill to coordinate Federal research in the Chesapeake Bay (H.R. 4417) was reported May 19, 1980, by the House Committee on Merchant Marine and Fisheries (H.Rept. 96-993) and passed the House the same day. The Senate passed H.R. 4417, amended, Sept. 24; the House agreed to the Senate amendments on Sept. 30. The measure was signed as P.L. 96-460 on Oct. 15, 1980.

Legislation authorizing $368.7 million for EPA's R&D for FY81 (S. 2726) passed the Senate on May 22, 1980. The House passed the same measure, amended, in lieu of H.R. 7099, on Dec. 1, 1980. The Senate agreed to the House amendment with an amendment on Dec. 5, 1980. For further information, see IB78021 -- Environmental Monitoring (now archived).

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA). The 96th Congress marked the tenth anniversary of this Act, which requires Federal agencies to prepare environmental impact statements on "major Federal actions significantly affecting the quality of the human environment." For those actions triggering the impact statement requirement, NEPA analysis must precede an agency's substantive decisions under other laws, and as such figured in this year's legislative debates over whether to create a "fast track" Energy Mobilization Board and in proposals for the long-term handling of nuclear wastes, among others. Although general oversight of the Act was not conducted in the 96th Congress, the degree of compliance necessary for several programs was examined and further specified in laws enacted to provide loans for synthetic fuel plants (P.L. 96-294), to lease areas of the National Petroleum Reserve in Alaska (P.L. 96-514), and to designate new (RARE II) wilderness areas -- all by limiting the impact assessments necessary for compliance. Issues arising from NEPA compliance for new sites for large-scale energy facilities or for various waste storage facilities can be expected to continue to be controversial, along with such impact assessments as that for the MX missile project.

The President's Council on Environmental Quality, which oversees the implementation of the Act, issued new regulations (effective in 1979) that were designed to improve the impact assessment process by reducing delay and paperwork and further intended to make the impact statements more useful to decisionmakers. Congressional oversight of this streamlined process can be expected during the 97th Congress. Legislative issues are likely to include limits on judicial review and the (regional) geographic considerations -- of where court cases are tried -- embodied in the Environmental Venue Act of 1980.

The 96th Congress proposals to expedite energy projects through "fast track" regulatory requirements were recommitted to conference in June, 1980, because, in part, they contained provisions for overriding some environmental standards. As reported, they specified which energy-related governmental actions would require the preparation of impact statements and which would be subject to judicial review. These provisions were designed to reduce the uncertainty that has often surrounded individual agencies' determinations of what impact statements to prepare [see consideration of conference report on S. 1308 (H.Rept. 96-1119)].

Future consideration of such proposals (as "fast track" and/or judicial review for NEPA purposes) may depend on whether the expected improvements materialize as the new CEQ regulations have their full effect on Federal projects.

The wilderness bills (see H.R. 7702, H.R. 5487, and P.L. 96-312, among others) have the effect of overturning a Federal court ruling in California by approving a Forest Service Impact Statement on its RARE II wilderness recommendations to Congress. As passed in the Senate, the Nuclear Waste Policy Act (S. 2189) exempted some nuclear waste site planning from specified NEPA requirements, especially those related to alternative considerations. Finally, H.R. 6626 was passed by the House without earlier provisions to exempt Small Business Administration loans from NEPA procedures. For further information on NEPA, see issue brief IB80004 -- National Environmental Policy Act: An Overview of Current Issues.

BUDGET. EPA's FY80 budget was enacted as P.L. 96-103. It appropriated to EPA $4.660 billion, of which $513.3 million was for salaries and expenses; $235.5 million for R&D; $508.8 million for abatement and control; and $3.4 billion for the sewage treatment construction grants program. Included are $22 million to strengthen EPA's hazardous waste control program; $1.25 million for spill prevention and response under the Clean Water Act; $37.5 million for areawide water pollution planning (208 grants); $82.8 million for air pollution grants; $4.39 million for underground injection control grants under the SDWA; and $3.38 million for the regulatory council. Supplemental FY81 appropriations were enacted on July 8, 1980 (P.L. 96-304).

The 1981 budget, submitted to Congress on Jan. 21, 1980, seeks moderate increases for EPA's programs. Overall, $562.5 million is sought for salaries and expenses, which includes 200 new positions. The R&D budget sets $264.9 million as the FY81 target, while the Abatement, Control, and Compliance target is $508.9 million. $3.7 billion is requested to continue the sewage treatment construction grants program.

Among the highlights of the budget submission is the increase in EPA's hazardous waste program. The proposal seeks a 47% increase in funding and a 97% increase in personnel to handle EPA's program. $111 million is sought for the development of hazardous waste regulations, $26 million for hazardous waste R&D, and $30 million to assist States in dealing with their hazardous waste problems. As part of the President's Energy Initiative, EPA is seeking $16 million for the development of proper energy standards, including those for air emissions. $20 million is requested for the rural clean water program to identify agricultural non-point source pollution. For the development of test standards and environmental evaluations of toxic substances, the newly proposed EPA budget seeks $37 million. The budget revision, submitted in March 1980, seeks only to defer $3.6 billion in FY80 sewage treatment funding, thereby saving $100 million in FY81.

The House Committee on Appropriations reported H.R. 7631 (H.Rept. 96-1114), the HUD-Independent Agencies Appropriation Bill for FY81, on June 19, 1980. The full House passed this bill on July 28, 1980, without substantially amending it. The Committee recommended $540.9 million, $14.5 million less than the budget estimate for Salaries and Expenses. Most of this decrease ($10.3 million) represents a cut of ADP technical support. The Appropriations Committee also recommended $252.2 million for Research and Development, $12.7 million under the budget estimate. In large part this R&D decrease was proposed to conform with House authorized levels for solid waste, toxic substance, energy, and wastewater programs. The Committee did, however, recommend a $2.5 million increase for acid rain research, a $2 million increase for Great Lakes research, and $2 million for groundwater research. For Abatement, Control and Compliance, the Committee recommended $529.8 million, $25 million below the budget request. This includes decreases of $5 million in the Clean Lakes Program, $2 million in the underground injection control program, and $10 million in resource recovery local financial assistance. Increases were recommended for State water grants ($5 million) and academic training ($1.5 million). Additionally, a major general reduction of $15 million was recommended by the House Appropriations Committee. For the Construction Grants program, the Committee recommended $3,400,000,000, a decrease of $300 million under the budget request.

The Senate Committee on Appropriations reported H.R. 7631 (S.Rept. 96-296) on Sept. 4, 1980, and the full Senate passed this legislation on Sept. 23. As reported and passed by the Senate, $541.6 million was recommended for "Salaries and Expenses," $700,000 more than the House, with a $5.7 million cut in ADP support. The Senate Committee also recommended a 50% reduction in consulting services. Under the "Abatement Control and Compliance" account, the Senate recommended and passed $543.3 million, $12 million more than the House version. Most of this increased funding, $13.5 million, was directed to the clean lakes program, an allocation that was in disagreement with the House's $5 million cut. The Senate denied the $5 million added by the House for section 106 State water grants, and recommended cuts in resource recovery and underground injection control grants due to large unobligated balances in those programs. Under "Research and Development" the Senate-passed amount of $251.2 million is $1 million below the House amount. The Senate disagreed with the House emphasis on large R&D increases and recommended a 50% reduction in the $27.4 million increase sought by the Adminstration. It also directed that $2.6 million be set aside for Great Lakes Research, $5 million for acid rain research, $900,000 for cold climate research, and $2.5 million to continue the renewable resource program. The Senate disagreed with the House cut in extramural research and recommended $14.7 million. The Senate concurred in the House-passed $3.4 billion for the sewage treatment construction grants program.

The enrolled bill, H.R. 7631, reflecting the adopted provisions of the conferees (H.Conf.Rept. 96-1476) and several technical amendments agreed to during final approval on the House and Senate floors, appropriates $547.5 million for Salaries and Expenses. The bill agrees with the Senate Appropriation Committee recommendations except for a $1 million decrease in contracting by the EPA Office of Planning and Evaluation, a $700,000 increase for consulting services, a $300,000 and 10-position increase for headquarters review of advanced wastewater treatment projects costing more than $3 million. The conferees raised the threshold for approval of such projects by the Administrator to $3 million. Additionally, a $850,000 reduction in travel was recommended, with $250,000 of this amount to be deducted from international travel.

A $253.5 million Research and Development appropriation was agreed to by the conferees, and all the House Committee recommendations were agreed to except for a $6 million increase in solid waste public sector activities, $4.5 million in toxic substances and a $4.9 million increase in energy-related activities, as well as a $1 million increase for wastewater reuse activities. But the conferees recommended decreases of $1 million in acid rain research, $2.1 million in groundwater research, and a general $12.2 million decrease to be distributed at Agency discretion. An allocation of $900,000 for cold climate activities was recommended by the conferees.

The conferees recommended $545.1 million for abatement, control and compliance, agreeing with the recommendations of the House Appropriations Committee except for an increase of $1.5 million for the cleanup and removal of polychlorinated biphenyls from Waukegan Harbor, a $2.5 million increase for the Clean Lakes Program, and a $4 million increase for local resource recovery programs. The conferees adopted reductions of $2.5 million for State (106) water pollution control grants, $500,000 for academic training, and $5 million for pesticides programs. A $7.8 million increase for the hazardous waste activities and a specific $700,000 for Flathead River Environmental Impact Study as well as an increase of $7.5 million under "general reduction" were accepted by the conferees. The conferees further deleted Senate language regarding the certification of automobiles made in the Soviet Union and House language appropriating $1 million for Scientific Overseas Activities. They appropriated $2.5 million for the U.S. Regulatory Council. The conferees agreed on $4.1 million for EPA buildings and facilities.

Several amendments were reported by the conferees in "technical disagreement," thus requiring final agreement on the floors of either House or Senate. They included an agreement on limiting State solid waste activity programs to $8 million, limiting transfers within EPA to before Mar. 31, 1981, and language prohibiting use of funds to retroactively enforce construction grants projects.

The final bill included $3.4 billion for sewage treatment construction grants, as agreed by both Appropriation Committees.

LEGISLATION

SUPERFUND

P.L. 96-510, H.R. 7020

Establishes a $1.6 billion superfund, financed over 5 years by fees on industrial chemicals and feedstocks (87.5%) and Federal appropriations (12.5%). Authorizes the President to use the fund for cleanup and for long-term remedial actions in response to spills or releases of chemicals of hazardous wastes into the environment (except that oil spills are not covered). Provides for funding of epidemiological studies, chromosomal screening, and a registry of persons exposed to hazardous substances. Establishes an "Agency for Toxic Substances and Disease Registry" in the Public Health Service.

Establishes liability on those responsible for hazardous wastes pollution and spills for entire costs of cleanup, with a limit of $50 million on each incident of damage to natural resources owned by the Federal government. Provides that the government does not have to prove a discharger's negligence to sue to recover cleanup costs.

Sets up a $200 million "Post Closure Liability Fund" to deal with costs that might arise from dumps permitted and closed under the Resource Conservation and Recovery Act. Provides for a "legislative veto" of government regulations issued under the Act. Requires EPA to designate 100 top priority sites for cleanup, with at least one site in each State. Creates an EPA Assistant Administrator for Solid Wastes. Introduced Apr. 2, 1980; referred to Committee on Interstate and Foreign Commerce. Reported May 16, 1980 (H.Rept. 96-1016). Subsequently referred to House Committee on Ways and Means. Reported, with amendments, June 20, 1980 (H.Rept. 96-1016, Part II). Passed House Sept. 23, 1980. Passed Senate Nov. 24, in lieu of S.

H.R. 85 (Biaggi et al.)

Provides a comprehensive system of liability and compensation for oilspill damage and removal costs, and has other purposes. Introduced Jan. 15, 1977; referred jointly to Committees on Merchant Marine and Fisheries and on Public Works and Transportation. Reported by Committee on Merchant Marine and Fisheries on May 15, 1979 (H.Rept. 96-172, Part 1). Reported, with amendments, by the House Committee on Public Works and Transportation, May 8, 1980 (H.Rept. 96-172, part II). Re-referred to House Committee on Ways and Means. Reported June 20, 1980 (H.Rept. 96-172, part III). Passed House Sept. 19, 1980.

S. 1480 (Culver et al.)

Provides for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites. Introduced July 11, 1979; referred to Committee on Environment and Public Works. Reported (S. Rept. 96-848) July 11, 1980. Passed Senate, Nov. 24, amended; H.R. 7020 then passed in lieu.

OIL SPILLS

H.R. 85 (Biaggi et al.)

Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution. Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits. Sets forth procedures for identifying and publicizing pollution sources. Introduced Jan. 15, 1979. Reported by Committee on Merchant Marine and Fisheries (H.Rept. 96-172, part I) May 15, 1979. Reported by Committee on Public Works and Transportation (H.Rept. 96-172, part 2) May 16, 1980. Sequentially referred to Committee on Ways and Means, May 20, 1980; reported June 20, 1980 (H.Rept. 96-172, part III). Passed House, Sept. 19, 1980.

H.R. 5338 (Roberts)

Amends the Federal Water Pollution Control Act Section 311 Fund to provide $80 million to compensate victims of Mexican oil spill for economic damages. Introduced Sept. 19, 1979; referred to the Committee on Public Works and Transportation. Reported May 13, 1980 (H.Rept. 96-956); passed by the House June 16, 1980.

WATER

P.L. 96-148, S. 901
Amends the Clean Water Act to repeal certain grant and loan conditions for construction of publicly owned treatment works. Introduced Apr. 5, 1979; referred to Committee on Environment and Public Works. Reported (S.Rept. 96-200) June 5. Passed Senate, amended, June 14. Passed House, amended, June 26, in lieu of H.R. 4023. Senate agreed to House amendment Nov. 30; House concurred in Senate amendment to House amendment Dec. 3. Signed by President Carter Dec. 16, 1979.

P.L. 96-483, S. 2725
Extends certain authorizations in the Clean Water Act and has other purposes. Introduced May 15, 1980; reported from Committee on Environment and Public Works (S.Rept. 96-744) the same day. Passed Senate June 25, 1980. Passed House, amended. Senate concurred in House amendment Oct. 1, 1980. Signed into law Oct. 21, 1980.

H.R. 4113 (Cleveland et al.)
Amends the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States, and has other purposes. Introduced May 16, 1979; referred to Committee on Public Works and Transportation. Reported Dec. 17 (H.Rept. 96-709); passed House, amended, Dec. 19. [Identical bill: H.R. 4449 (Obey).]

H.R. 6667 (Roberts el al.)
Amends certain authorizing provisions of the Clean Water Act. Introduced Feb. 28, 1980; referred to Committee on Public Works and Transportation. Reported May 15, 1980 (H.Rept. 96-983).

DRINKING WATER

P.L. 96-63, S. 1146
Amends the Public Health Service Act to extend the authorization of appropriations for EPA activities relating to safe drinking water. Introduced and reported (S.Rept. 96-161) May 15, 1979. Passed Senate May 22, 1979. Passed House, amended, July 30, 1979, in lieu of H.R. 3509. Senate agreed to House amendment Aug. 3, 1979. Signed by President Sept. 6, 1979.

P.L. 96-502, H.R. 8117
Safe Drinking Water Act amendments. Introduced Sept. 15, 1980; referred to Committee on Interstate and Foreign Commerce. Reported from Committee (H.Rept. 96-1348) Sept. 19. Passed by House Sept. 23, 1980. Passed by Senate Nov. 19, 1980. Signed by President Carter Dec. 5, 1980.

OCEAN DUMPING

P.L. 96-381, S. 1123
Provides for Title II authorizations for the Marine Protection Research and Sanctuaries Act. Introduced May 11, 1980, and reported the same day by Senate Committee on Commerce, Science and Transportation (S.Rept. 96-133). Passed House May 13, 1980, and Senate June 6, 1980. Senate agreed to House amendment with an amendment. House agreed to Senate amendment Sept. 24, 1980. Signed as P.L. 96-381, Oct. 6, 1980.

P.L. 96-478, H.R. 6665
Implements the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973. Introduced Feb. 28, 1980. Reported to House from Committee on Merchant Marine and Fisheries, Aug. 18, 1980; passed House, amended, Aug. 18, 1980. Reported to Senate from Committee on Commerce, Science and Transportation with amendment. Passed Senate Sept. 23, 1980. Signed as P.L. 96-478, Oct. 21, 1980.

H.R. 6616 (Murphy)
Amends the Marine Protection, Research and Sanctuaries Act of 1972 to authorize appropriations for FY80. Reported (H.Rept. 96-894, part 1) from Merchant Marine and Fisheries Apr. 22, 1980. Reported (H.Rept. 96-984, part 2) from Science and Technology April 1980. S. 1140, S. 1123, and S. 1148 passed in lieu May 13, 1980.

S. 1140 (Cannon)
Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for FY80 and FY81 for acquisition, development, and operation of marine sanctuaries. Reported May 15, 1979 (S.Rept. 96-148) by Committee on Science, Commerce, and Transportation. Passed Senate May 22, 1979. Passed House, amended, May 13, 1980, in lieu of H.R. 6616. Senate agreed to House amendment Sept. 18, 1980; signed as P.L. 96-332 Aug. 29, 1980.

S. 1148 (Muskie)
Provides for Title I authorization of appropriations for the Marine Protection Research and Sanctuaries Act through 1982. Introduced May 13, 1979. Reported by Senate Committee on Environment and Public Works May 15, 1979 (S.Rept. 96-163). Passed Senate June 6, 1979. Passed House, amended, May 13, 1980. Senate agreed to House amendment with an amendment, Sept. 30, 1980.

AIR

P.L. 96-300, S.J.Res. 188
Extends the reporting date and the termination date of the National Commission on Air Quality. Introduced June 25, 1980. Reported, same day, from Committee on Environment and Public Works (S.Rept. 96-836). Passed Senate June 27. Passed House, also, June 27. Signed into law July 2, 1980.

P.L. 96-294, S. 932
Defense Production Act Extension Amendments of 1979. Incorporates Moynihan amendment on acid precipitation. Introduced Apr. 9, 1979; referred to more than one committee. Reported from Committee on Banking, Housing, and Urban Affairs (S.Rept. 96-166) May 15. Passed Senate June 20. Passed House, amended, in lieu of H.R. 3930, June 26. Reported jointly from Committees on Banking, Housing, and Urban Affairs and on Energy and Natural Resources, with amendment (S.Rept. 96-387) Oct. 30, 1979. Senate agreed to House amendment with amendment Nov. 8, 1979. Conference report filed in House, June 18 (H.Rept. 96-1104) and in Senate June 19 (S.Rept. 96-824). Signed into law June 30 (P.L. 96-294).

P.L. 96-270, H.R. 3282/S. 1658
Asbestos School Hazard Detection and Control Act of 1979. Establishes a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes. H.R. 3282 and S. 1658 introduced Mar. 28 and Aug. 2, 1979, respectively; referred to Committee on Education and Labor and Committee on Human Resources, respectively. H.R. 3282 reported with amendment (H.Rept. 96-197) May 15. Passed House, amended, Dec. 13, 1979. S. 1658 reported (S.Rept. 96-710), May 15, 1980. Passed Senate, amended, May 22. Passed House, May 30. Signed into law June 14, 1980 (P.L. 96-270).

SOLID WASTES

P.L. 96-463, S. 2412
Amends RCRA to encourage the use of recycled oil. Transfers the authority to prescribe labeling requirements for recycled oil from the Federal Trade Commission (FTC) to the Environmental Protection Agency (EPA), and voids earlier FTC regulations; labeling encourages the return and reuse of oil. The Federal government is to assign the highest priority to the development of quality control and procurement standards for re-refined oil. States are encouraged (and assisted with $25 million per year for 4 years) to develop programs for the collection and recycling of used oil. EPA is authorized to regulate the collection, disposal, or processing of used oil as a hazardous waste. Contracts or agreements to discourage the use of recycled oil are prohibited; injured parties may recover triple damages. Introduced Mar. 12, 1980; reported with amendment from Environment and Public Works Committee July 30 (S.Rept. 96-879); passed Senate August 18; reported from House Committee on Interstate and Foreign Commerce, with amendment, Sept. 25, 1980.

P.L. 96-482, S. 1156
Reauthorizes RCRA, increasing authorizations for hazardous waste control, and makes minor amendments. Introduced May 15, 1979; referred to Committee on Environment and Public Works; reported May 15 (S.Rept. 96-172); considered in Senate May 24 and June 4, 1979; passed Senate, amended, June 4, 1979; passed House, amended, Feb. 20, 1980.

H.R. 2812 (Jeffords et al.)
Beverage Container Reuse and Recycling Act of 1979. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits the sale of metal beverage containers with detachable openings. Introduced Mar. 13, 1979; referred to Committee on Interstate and Foreign Commerce.

H.R. 3994 (Florio)
Resource Conservation and Recovery Act Amendments of 1979. Extends RCRA 1 year and makes minor amendments: (1) Exempts wastewater treatment facilities built to comply with the Clean Water Act from the provisions of RCRA unless groundwater monitoring data reveal there is a significant release to an underground water supply of any hazardous waste from the wastewater treatment pond or basin. (2) Repeals section 2004 of RCRA, providing grants for discarded tire disposal. (3) Provides for the integration of RCRA with the Surface Mining Control and Reclamation Act of 1977. (4) Declares oil and gas drilling muds and brines to be not hazardous, and, with certain exceptions, prohibits EPA from regulating other "special wastes" under RCRA until studies have been completed. (5) Authorizes $20 million for States to carry out a hazardous site inventory. (6) Expands EPA's enforcement authority and emergency response authority regarding hazardous wastes. (7) Re-authorizes $30 million for State planning and implementation of plans, and $18 million for municipal planning and programs. (8) Sets deadlines for regulations for Federal procurement of goods with recycled material content. (9) Establishes a National Advisory Commission on Resource Recovery. Introduced May 8, 1979; referred to Committee on Interstate and Foreign Commerce. Reported May 15, 1979, with amendment (H.Rept. 96-191). Considered in House and passed, amended (as above), Feb. 20, 1980; language of H.R. 3994 inserted in S. 1156 in lieu of Senate language, and passed Feb. 20, 1980.

H.R. 7020 (Florio)
Amends the Solid Waste Disposal Act to establish a hazardous waste response program including State and Federal inventories, priorities, and monitoring of inactive sites. Authorizes the Administrator of the Environmental Protection Agency to take emergency response actions to releases, or threatened releases, of hazardous waste that endanger the public health or the environment. Directs the President to issue a National Hazardous Waste Response Plan. Establishes a Hazardous Waste Response Fund, including funds authorized to be appropriated and fees, penalties, damages, and reimbursements assessed under this Act. Sets forth prohibitions against and liability for releases of hazardous waste. Introduced Apr. 2, 1980; reported from Committee on Interstate and Foreign Commerce with amendment (H.Rept. 96-1016, Part I) May 16. Reported from Committee on Ways and Means June 20, 1980 (H.Rept. 96-1016, Part II). Passed by House Sept. 23, 1980.

S. 50 (Hatfield et al.)
Beverage Container Reuse and Recycling Act of 1979. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits the sale of metal beverage containers with detachable openings. Introduced Jan. 15, 1979; referred to Committee on Commerce, Science, and Transportation.

S. 1325 (Randolph)
Hazardous Waste Post-Closure Liability Act. Establishes a system for determining liability and awarding compensation for claims arising from discharges from hazardous waste management facilities. Establishes a Hazardous Waste Post-Closure Liability Fund to be constituted from annual nationally uniform premiums collected from operators of such facilities. Incorporated into S. 1480, as reported. Introduced June 12, 1979; referred to Committee on Environment and Public Works.

TOXIC SUBSTANCES IN THE ENVIRONMENT

P.L. 96-270, S. 1658

Directs the Secretary of Health, Education, and Welfare to establish an Asbestos Hazards School Safety Task Force to direct Federal efforts to ascertain the danger to school children and employees from asbestos materials in schools. Establishes a program for the systematic inspection of schools for asbestos hazards. Provides funds for asbestos hazard identification and for technical and educational assistance. Establishes an Asbestos Hazards Control Loan Program and an asbestos hazards detection program. Introduced Aug. 2, 1979; referred to Committee on Labor and Human Resources. Reported, amended, May 15, 1980 (S.Rept. 96-710). Passed Senate, amended, May 22. Passed House May 30. Signed into law June 14, 1980.

H.R. 7126 (Scheuer et al.)

Amends the Toxic Substances Control Act to extend the authorization of appropriations contained in such Act. Directs the Administrator of the Envirionmental Protection Agency to: (1) study the adequacy of compensation to mitigate damages from hazardous chemical substances; and (2) monitor emissions at facilities used to incinerate polycholorinated biphenyls ("PCBs"). Introduced Apr. 22, 1980; referred to Committee on Interstate and Foreign Commerce. Reported with amendment (H.Rept. 96-968) May 15, 1980.

S. 1147 (Muskie)

Amends the Toxic Substances Control Act to extend the authorization of appropriations through FY82. Introduced May 15, 1979; referred to Committee on Environment and Public Works. Reported (S.Rept. 96-162) May 15. Passed Senate May 22, 1979.

PESTICIDES

P.L. 96-539, H.R. 7018

Extends the Federal Insecticide, Fungicide, and Rodenticide Act until Sept. 30, 1981. Introduced Apr. 2, 1980; referred to Committee on Agriculture. Reported May 16, 1980. Failed passage under suspension of rules June 17, 1980. Amended and passed House June 24, 1980. Amended and passed Senate July 24. Approved by conferees Sept. 30, 1980. Conference report approved by Senate Dec. 1, 1980; approved by House Dec. 4, 1980.

S. 2096 (Cranston, et al.)

Directs the Secretary of HEW to provide for the design of a protocol for and the conduct of an epidemiological study to determine the long-term adverse health effects in persons of various populations who were exposed to dioxins produced during the manufacture of phenoxy herbicides. Called up by unanimous consent and passed by the Senate Dec. 6, 1979. Passed the House, Dec. 19. Vetoed by President Carter on Jan. 2, 1980.

S. 2587 (Talmadge, by request)

Amends the Federal Insecticide, Fungicide, and Rodenticide Act to authorize appropriations to carry out the provisions of such Act through FY82. Introduced Apr. 21, 1980; referred to Committee on Agriculture, Nutrition and Forestry. Reported with amendment (S.Rept. 96-764) May 15, 1980. H.R. 7018 passed in lieu, July 24.

NOISE

P.L. 96-193, H.R. 2440

Amends the Airport and Airway Development Act of 1970 to repeal the prohibition against the expenditure of certain discretionary funds. Introduced Feb. 27, 1977. Reported by Committee on Public Works and Transportation Sept. 26, 1979 (H.Rept. 96-475). Passed House, amended, Oct. 22, 1979. Passed Senate, amended, Oct. 22, 1979 (inserted text of S. 413 as passed Senate on May 1, 1979). Conference report (H.Rept. 96-715) filed in House Dec. 19, 1979. Signed into law Feb. 18, 1980.

H.R. 3942 (Johnson, H., et al.)

Aviation Safety and Noise Reduction Act. Directs the Secretary of Transportation to establish a single system of measuring noise and the impact of noise at airports and areas surrounding airports and to prescribe land uses which are compatible with such noise levels. Amends the Airport and Airway Development Act of 1970 to make grants available under such Act for airport noise compatibility programs. Directs the Secretary to report to Congress on the development of an air collision avoidance system. Introduced May 9, 1979. Reported, with amendment, by Committee on Public Works and Transportation May 15, 1979 (H.Rept. 96-203, part I). Reported, with amendment, by Committee on Interstate and Foreign Commerce July 13, 1979 (H.Rept. 96-203, part II).

H.R. 3995 (Floris et al.)

Amends the Noise Control Act of 1972 to direct the Administrator of the Environmental Protection Agency to develop and submit to the Congress a 5-year plan for carrying out the Administrator's authorities under such Act. Authorizes appropriations for such Act. Introduced May 15, 1979. Reported by Committee on Interstate and Foreign Commerce May 15, 1979 (H.Rept. 96-202, part I). Reported by House Committee on Public Works and Transportation July 12, 1979 (H.Rept. 96-202, part II). Measure passed and laid on table Feb. 12, 1980. S. 1144 passed in lieu.

S. 413 (Cannon)

Directs the Secretary of Transportation to establish a single system of measuring noise and the impact of noise at airports and areas surrounding airports and to prescribe land uses which are compatible with such noise levels. Amends the Airport and Airway Development Act of 1970 to make grants available under such Act for airport noise compatibility programs. Authorizes the Civil Aeronautics Board to require aircraft operators to impose noise abatement surcharges on flights until an operator's fleet is in compliance with specified noise abatement standards. Introduced Feb. 9, 1979; reported (S.Rept. 96-52) by Senate Committee on Commerce, Science, and Transportation Mar. 29, 1979; passed Senate, amended, (78-15), May 1, 1979. Provisions inserted in H.R. 2440 as passed Senate.

S. 1144 (Culver)

Amends the Noise Control Act of 1972 to be cited as the Quiet Communities Act. Authorizes appropriations for FY80 and FY81. Directs the Administrator of the Environmental Protection Agency to develop and submit to the Congress a 5-year plan for carrying out the Administrator's authority under this Act. Introduced May 15, 1979. Reported by Senate Committee on Environment and Public Works May 15, 1979 (S.Rept. 96-152). Passed Senate, amended, June 14, 1979. Passed House in lieu of H.R. 3995 Feb. 12, 1980. In conference.

ENVIRONMENTAL RESEARCH AND DEVELOPMENT

P.L. 96-229, H.R. 2676

Environmental Research, Development and Demonstration Authorization Act of 1980. Authorizes appropriations for environmental research, development, and demonstrations for FY80. Introduced Mar. 7, 1979; referred to Committee on Science and Technology. Hearings held by Subcommittee on Natural Resources and Environment Mar. 7. Reported, amended (H.Rept. 96-58) Mar. 20; passed House amended Mar. 27; reported from Senate Committee on Environment and Public Works, amended (S.Rept. 96-158) May 15, 1979; passed Senate May 23. Conference report (H.Rept. 96-611) issued Nov. 9, 1979. Signed into law Apr. 7, 1980.

P.L. 96-460, H.R. 4417

Establishes in the Department of Commerce an independent establishment known as the Office for Chesapeake Bay Research, Planning, and Coordination to coordinate research efforts regarding the Chesapeake Bay. Establishes the Chesapeake Bay Research Board to: (1) advise the Director of the Office; (2) develop a Chesapeake Bay Research Plan; and (3) review, evaluate, and comment upon the annual report submitted by the Office. Introduced June 11, 1979; reported from Committee on Merchant Marine and Fisheries with amendment (H.Rept. 96-993) May 16. Passed House May 19. Reported to Senate Sept. 17 (S.Rept. 96-950). Passed Senate, with amendments, Sept. 24. House agreed to Senate amendment Sept. 30, 1980. Signed into law on Oct. 15, 1980.

H.R. 7099 (Ambro et al.)

Authorizes appropriations for environmental research, development, and demonstrations for FY81 to the Environmental Protection Agency (EPA). Directs the Administrator of EPA to study the use of peer review in research planning and to develop procedures to assure that EPA research programs produce data of verifiable accuracy. Authorizes the Administrator to award an annual prize for an environmentally related research contribution. Directs the principal EPA research official to commission annual critical reviews of literature relevant to EPA's mission. Directs the Scientific Advisory Board to provide such scientific advice as the Congress requests. Introduced Apr. 21, 1980; referred to Committee on Science and Technology. Reported (H.Rept. 96-959) May 14. S. 2726 passed in lieu, Dec. 1, 1980.

S. 2726 (Culver)

Authorizes appropriations for environmental research, development, and demonstrations for FY81 to the Environmental Protection Agency (EPA). Directs the Administrator of EPA to issue regulations providing for access to oil shale operations on federally owned land by persons conducting research on the environmental effects of oil shale operations. Introduced May 15, 1980; reported from Committee on Environment and Public Works (S.Rept. 96-745) the same day. Passed Senate May 22. Passed House, amended, in lieu of H.R. 7099, on Dec. 1, 1980. Senate agreed to House amendment with an amendment Dec. 5, 1980.

NATIONAL ENVIRONMENTAL POLICY ACT

H.R. 4985 (Udall et al.)/S. 1308 (Jackson et al.)

Provide for a coordinated, simplified, and prompt process for Federal approval of non-nuclear energy facilities which are determined to be in the national interest. Establish an Energy Mobilization Board to be appointed by the President to designate priority energy projects, based on specified criteria, and to publish a Project Decision Schedule containing deadlines for all Federal actions relating to such projects. H.R. 4985 introduced July 27, 1979. Reported from Committee on Interior and Insular Affairs (H.Rept. 96-410) Aug. 2, 1979. Reported from Committee on Interstate and Foreign Commerce with amendment (H.Rept. 96-410, part II) Sept. 21, 1979. S. 1308 introduced June 11, 1979; referred to Committee on Energy and Natural Resources. Reported with amendment (S.Rept. 96-331) Sept. 25, 1979. Measure passed Senate, amended, Oct. 4, 1979. Passed House, amended, in lieu of H.R. 4985, Nov. 1, 1979. Conference began Dec. 7, 1979; conference report filed in House June 21, 1980 (H.Rept. 96-1119). House voted June 27, 1980, to recommit conference report to Conference Committee without instructions.

H.R. 6626 (Smith, N., by request)

Consolidates and modifies the terms of SBA programs under sections 7(a), 7(e), 7(h), 7(i) and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958 to exempt SBA loans from the environmental impact requirements of the National Environmental Policy Act of 1969 and to limit the annual amount of SBA loans, guarantees, and other obligations or commitments to the extent or amounts provided in appropriations acts. Introduced Feb. 26, 1979; referred to Committee on Small Business. Hearing held Mar. 3, 1980. Reported May 19, 1980 (H.Rept. 96-1028, part I); reported, amended (without NEPA exemption from Merchant Marine and Fisheries), June 28, 1980 (H.Rept. 96-1028, part II). Passed House without exemption July 28, 1980. Passed Senate, amended, Dec. 2, 1980.

BUDGET

P.L. 96-103, H.R. 4394

Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980. Makes appropriations for FY80 to the Department of Housing and Urban Development and specified independent agencies and Government corporations. Introduced June 7, 1979; reported (H.Rept. 96-249) the same day. Amended and passed House June 27. Reported, amended, to Senate (S.Rept. 96-285) July 24, 1979. Amended and passed Senate July 27. Reported from conference August 2 (H.Rept. 96-409). Disagreements on non-EPA aspects prevented passage and a second conference was held. Second conference report issued (H.Rept. 96-542) Oct. 23, 1979. Signed into law Nov. 5, 1979.

P.L. 96-304, H.R. 7542

Supplemental Appropriations--HUD and Independent Agencies, Fiscal Year 1980. Provides supplemental appropriations for the Environmental Protection Agency. Introduced June 11, 1980; reported same day by House Committee on Appropriations (H.Rept. 96-1086). Passed House, amended, June 19, 1980. Referred to Senate Committee on Appropriations June 20, 1980. Reported by Senate Committee on Appropriations June 23, 1980 (S.Rept. 96-829). Passed Senate, amended, June 28, 1980. Conference report filed in House July 2, 1980 (H.Rept. 96-1149). House and Senate agreed to conference report July 2, 1980. Signed into law July 8, 1980.

H.R. 7631 (Boland)
Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981. Makes appropriations to various agencies including EPA. Introduced June 19, 1980; referred to Committee on Appropriations. Reported June 19, 1980 (H.Rept. 96-1114). Passed House, July 28, 1980. Reported by Senate Committee on Appropriations Sept. 4, 1980 (S.Rept. 96-926); passed Senate Sept. 23, 1980.

Blodgett, John

FINANCIAL AND FISCAL AFFAIRS

MLC-034

FEDERAL RESERVE MEMBERSHIP AND MONETARY CONTROL

...for assuring adequate monetary control...

P.L. 96-221, the Depository Institutions Deregulation and Monetary Control Act, was signed into law on Mar. 31, 1980. Title I, the Monetary Control Act, significantly increases the Federal Reserve System's (FRS's) sphere of influence for monetary control purposes. A principal monetary control provision of this law enables the FRS to influence the growth rate of deposits in all depository institutions offering transactions accounts. The FRS can exercise such influence through its powers to create reserves for depository institutions and by setting and monitoring compliance with requirements for holding reserves in relation to the amount of deposits held with depository institutions. Prior to the enactment of P.L. 96-221, the FRS was limited to administering reserve requirements only for commercial banks belonging to the FRS. The Act also increases information available to the FRS about reserve and deposit positions of nonmember institutions by establishing reporting requirements for all depository institutions. In addition, it requires that the FRS charge for services previously available to member banks without charge and makes such services, including access to borrowing from the FRS, available to all depository institutions with transactions accounts. All provisions relating to monetary control apply uniformily to depository institutions whether or not they are members of the FRS.

The timing for full implementation of specific major provisions varies according to provisions of the Act. The FRS has issued regulations for extending restructured reserve requirements to all depository institutions. These regulations provide for uniform reserve requirements for all depository institutions. The phase-in period is 4 years for member banks and 8 years for nonmember institutions. Beginning in November 1980, depository institutions with $2 million or more in total deposits became subject to reserve requirements established for the first year of the phase-in process. The FRS has issued regulations, in force since September 1, 1980, governing depository institutions' access to borrowing from the FRS. The FRS has also issued a proposed schedule of fees for services to be made available to all depository institutions. The fee schedule, to be phased in during 1981, covers such services as check clearing, wire transfers of funds and the use of "float" which is credit the FRS extends to banks while it processes checks for clearing.

Questions about the continued capability of the Federal Reserve System (FRS) to exercise effective monetary control had been raised in connection with several developments that diminished, in relative terms, the deposit component of the stock of money over which the FRS maintained reserve requirement controls. The proportion of banks with membership in the FRS had been declining since 1946, but this decline accelerated appreciably in recent years. With high interest rates, an increasing number of member banks concluded that the cost of holding non-interest earning required reserves in amounts that were, in most cases, higher for member banks than required by State authorities for nonmember banks exceeded the value of services obtained on the basis of membership. There also was an increase in the availability and usage of alternatives to checking accounts associated with the entry of thrift institutions into the business of offering transactions accounts. The only thrift institutions having the option of FRS membership are mutual savings banks and very few of these exercised this option.

Prior to enactment of P.L. 96-221 the FRS set reserve requirements for member banks only. Different assessments of the implications of having non-uniform reserve requirements for member and nonmember banks formed the principal basis for the debate over the prospects for monetary control.

The basic approaches for assuring adequate monetary control represented in several legislative proposals considered prior to enactment of P.L. 96-221 included providing the FRS with prompt reports on deposits and reserves for all depository financial institutions, providing incentives for membership such as interest payments on required reserves, and extending restructured reserve requirements to all depository institutions or to a subset designated on some basis other than the current basis of membership in the FRS. In connection with proposals to pay interest on required reserves and to restructure reserve requirements, provisions were proposed for pricing services that the FRS previously offered free to member banks.

Those arguing for or against one or more of these approaches or particular features associated with proposals for implementing these approaches usually cited several considerations in addition to perceptions about the severity with which membership attrition might affect monetary control. These included implications of the various proposals for the presence of the FRS relative to the other two Federal bank regulatory agencies as a primary regulatory authority; expected impact on the Federal budget; implications for competition among different types and sizes of depository institutions; and preferences concerning explicit or implicit interest payments to deposit holders generally as well as to banks holding required reserves.

LEGISLATION

P.L. 96-221

Depository Institutions Deregulation and Monetary Control Act of 1980. On Nov. 7, 1979, the House passed a version of this bill subsequent to amendments by the Senate. The House action incorporated provisions of H.R. 7, the Monetary Control Act. Following conference action on Mar. 4-5, 1980, modifying the legislation, it was enacted and signed into law as P.L. 96-221 on Mar. 31, 1980.

White, Roger
IB79047

MLC-035

GENERAL REVENUE SHARING

...amended and extended...

General revenue sharing, established under the authority of the State and Local Fiscal Assistance Act of 1972 (P.L. 92-512) and amended and extended through Sept. 30, 1980, by the State and Local Fiscal Assistance Amendments of 1976 (P.L. 94-488), provides for Federal payments to State and local governments. Funds are paid automatically to approximately 39,000 qualifying State and local governments without requiring annual appropriation action by Congress. Two-thirds of the funds are paid directly to general-purpose local units of government. The remaining one-third is distributed to State governments. Funds are paid out of the State and Local Government Fiscal Assistance Trust Fund, which was established for this purpose.

State and local governments may use their entitlements in accord with local preferences with few Federal restrictions.

LEGISLATION

P.L. 96-604, H.R. 7112

The State and Local Fiscal Assistance Act Amendments of 1980 amend and extend the general revenue sharing through Sept. 30, 1983. The amendments continue to provide for payments to local governments on an entitlement basis, at an annual level of $4.6 billion. They authorize appropriations of $2.3 billion annually for States in fiscal 1982-83. When considering the State authorizations, the House insisted on retaining an amendment--adopted on the House floor but rejected by the Senate--that would require States to give up a dollar of categorical grant money for each dollar of revenue sharing funds they accepted. The Senate yielded to the House position on Dec. 12, 1980, when by voice vote it agreed to the House version of the legislation, clearing it for the President's signature. The bill was signed into law on Dec. 28, 1980, by President Carter.

Economics Division

MLC-036

REGULATION Q AND INTEREST ON DEPOSITS

...Congress responds to new regulations...

The Federal regulations that put ceilings on interest rates on deposits, informally known as "Regulation Q," have come under debate. Inflation and financial competition increased pressures for relaxing these regulations, while a falloff in housing -- a prime basis for them -- complicated the prospects for effecting any changes in them.

In Apr. 1979, a U.S. District Court of Appeals ruled on lawsuits concerning three services that allow interest on transactions balances. The services addressed in the ruling were automatic transfer service (ATS), remote service units (RSUs), and share drafts. ATS allows individuals to place funds in savings accounts for later automatic shifting into checking accounts. RSUs allow savings and loan association depositors to obtain electronic access to their savings balances through terminals in shopping areas. Share drafts -- not covered under Regulation Q -- are check-like instruments that allow credit union members to pay third-parties from credit union savings balances. The Court declared these services illegal as of Jan. 1980, unless Congress authorized them in a new public law. This ruling did not affect interest-bearing transaction accounts in the form of "negotiable Orders of withdrawal" (NOW) accounts. NOW accounts had been authorized by prior public law in New England and New York.

In Dec. 1979, both the House and the Senate agreed to several amendments to H.R. 4998, among which was the extension of ATS, RSUs, and share drafts through

Mar. 31, 1980. This bill also authorized NOW accounts in New Jersey. In late December, President Carter signed the amended bill into law as P.L. 96-161.

H.R. 4986 passed the House once, the Senate once, and the House a second time, in different versions. The first version passed by the House sought to authorize nationwide NOW accounts on Sept. 30, 1980; and to continue ATS, RSUs, and share drafts as of Dec. 31, 1979. The Senate passed an amended version of this bill. Its amendments substituted the provisions of H.R. 4986 reported out by its Committee on Banking, Housing, and Urban Affairs (following the markup of S. 1347), as modified by floor amendments, for the text that had passed the House. Among the provisions of the Senate measure were those that would have ceiling rates on time and savings accounts allowed interest-bearing transactions accounts and raised ceiling rates on time and savings accounts (subject to certain conditions or exceptions). The House then passed amendments to the Senate amendments that restored the text of its first version; removed the additional provisions passed by the Senate; and added provisions concerning monetary control that it had passed in H.R. 7. An early Dec. 1979 conference on this bill did not reconcile the differences in its various versions.

Another conference on H.R. 4986 in Mar. 1980 produced a Conference Report. The House and the Senate agreed to the Conference Report; and on Mar. 31, 1980, President Carter signed the resulting legislation into law as P.L. 96-221.

The following are some of the numerous provisions of P.L. 96-221: Transfer of authority to set ceiling rates on deposits to a new Depository Institutions Deregulation Committee, whose members are the Treasury Secretary, plus the Chairmen of the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, together with the Comptroller of the Currency (as a nonvoting member); a 6-year extension of Regulation Q, during which the committee has discretion to set ceiling rates on deposits based on economic conditions, but has been given a schedule for targeting the gradual phase-out of such ceilings; maintenance of rate differentials between most existing classes of similar accounts at commercial banks versus mutual savings banks and savings and loan associations, but authorization for creation of new kinds of accounts without such differentials; dissolution of the committee at the end of 6 years, upon the expiration of the authority for Regulation Q; authorization of nationwide NOW accounts at federally insured depository institutions effective Dec. 31, 1980; authorization for the continuance of ATS, RSUs, and share drafts beyond Mar. 31, 1980; expanded asset and liability powers for national banks, mutual savings banks, and savings and loan associations; and monetary control measures (see the entry on "Federal Reserve Membership and Monetary Control").

The Depository Institutions Deregulation Committee, created by P.L. 96-221, issued regulations changing the ceiling interest rates on deposits whose returns are tied to yields on Treasury securities. The U.S. League of Savings Associations filed a lawsuit seeking to void the Committee's new regulations in governing these deposits. The Committee also issued a regulation penalizing savers who withdraw funds from time deposits before maturity and regulations barring advance payment of interest and many extra finders' fees for new deposits, while raising the limit on the value of "premiums" used to attract deposits. Effective January 1981, it allows a ceiling rate of 5.25% on NOW accounts. Congressional response to the activities of this Committee included oversight hearings.

LEGISLATION

P.L. 96-161, H.R. 4998
See discussion above.

P.L. 96-221, H.R. 4986/S. 1347
See discussion above.

Jackson, William
IB80056

FOREIGN POLICY AND ASSISTANCE PROGRAMS

MLC-037

CHINA-U.S. RELATIONS

...unofficial ties with Taiwan; trade accord with China...

President Carter's surprise announcement on Dec. 15, 1978, that the United States would establish diplomatic relations with the People's Republic of China (P.R.C.) as of Jan. 1, 1979, would break its diplomatic ties with the Nationalist Chinese administration on Taiwan on that date, and would terminate its defense treaty with Taiwan a year later presented Congress with several legal, economic, and strategic concerns regarding future U.S. relations with China and with Taiwan. In general, these issues focused on the following three questions:

(1) How will the United States continue current commercial (including arms sales), cultural, and other forms of interchange with Taiwan in the wake of the break in official diplomatic relations?

(2) What legislative actions are likely to be required in order to normalize commercial and other interchanges with the P.R.C. following the normalization of Sino-American diplomatic relations?

(3) What should be the direction of future U.S. policy toward China, and what effect will changed relations with the P.R.C. and Taiwan have on other important American foreign and defense policy concerns?

The first issue was covered generally under provisions of P.L. 96-8 (Apr. 10, 1979).

On the specific issue of the U.S. defense treaty with Taiwan, the Senate on June 6, 1979, passed, by a vote of 59 to 35, a nonbinding resolution that "approval of the U.S. Senate is required to terminate any mutual defense treaty between the United States and another nation." While it did not specifically mention Taiwan, the resolution was seen as a rebuke of President Carter for his decision to end the U.S. defense treaty with Taiwan. The Senate action was also related to a Federal judge's decision earlier on June 6, 1979, to dismiss a suit against the President's action on the Taiwan defense treaty brought by 25 present and former Members of Congress. The judge reportedly indicated that he could take no action on the suit unless the Senate or the Congress went on record in opposition to the President's decision.

The judge later ruled in favor of the suit, on Oct. 17, 1979, thereby calling into question the Administration's ability to end the treaty with Taiwan.

On Nov. 30, 1979, the U.S. Court of Appeals in Washington overturned Judge Gasch's decision. Lawyers for Senator Goldwater and his supporters vowed to take the matter to the Supreme Court. A ruling by the Supreme Court on Dec. 13, 1979, allowed the Carter Administration to terminate the treaty on Jan. 1, 1980.

Congress began to consider the second question when it started deliberations on the U.S.-China trade accord, which was submitted to Congress by the Carter Administration in Oct. 1979. The accord, among other things, grants MFN tariff treatment to China. It was passed by Congress in January 1980.

LEGISLATION

Congressional interest in the first part of 1979 centered on a package of legislation submitted by the Administration to Congress in January. It contained provisions designed to continue U.S. economic, cultural, defense and other relations with Taiwan in the wake of U.S.-P.R.C. diplomatic normalization. The so-called "omnibus" bill was subjected to careful scrutiny by both the Senate Foreign Relations Committee and the House Foreign Affairs Committee, where a number of amendments were introduced in order to strengthen U.S. security ties, economic relations, and other interaction with Taiwan. The resulting legislation is summarized as follows:

P.L. 96-8, H.R. 2479

United States-Taiwan Relations Act. Declares that the U.S. make available defense articles and services to Taiwan and will take appropriate action in the event of a threat to the security of Taiwan. Provides for the continuation of laws applicable to Taiwan; sets forth provisions concerning relations between Taiwan and the United States. Reported to the House (H.Rept. 96-26) from the Committee on Foreign Affairs on Mar. 3, 1979. Passed the House, amended, on Mar. 13 and the Senate, amended, in lieu of S. 245, on Mar. 14. Conference report filed in the House (H.Rept. 96-71) Mar. 24; agreed to in the House Mar. 28 and in the Senate Mar. 29. Cleared for final action by the President. Signed into law as P.L. 96-8 on Apr. 10, 1979.

Congressional interest in the latter part of 1979 focused on the U.S.-China trade agreement, submitted to Congress for approval in Oct. 1979, which grants MFN tariff treatment to China:

H.Con.Res. 204 (Ullman et al.)

Approves the extension of non-discriminatory treatment to Chinese products. Reported to the House (H.Rept. 96-733) from the Committee on Ways and Means Jan. 17, 1980. Passed by the House and Senate Jan. 24, 1980.

Sutter, Robert G.
IB76053

MLC-038

EGYPTIAN-ISRAELI PEACE TREATY

...funds provided for implementation...

On Mar. 26, 1979, Egypt and Israel signed a peace treaty that ended their 30-year war. The treaty provides for the two countries to establish diplomatic relations, for Israeli withdrawal from the Sinai Peninsula in 3 years, and for opening negotiations on the future of the West Bank and the Gaza Strip. Both a lasting peace between Israel and Egypt and a wider Arab-Israeli peace face significant obstacles. At present, the Arabs reject Israeli annexation of the West Bank and the Gaza Strip under the Israeli "autonomy" plan.

The United States, as sponsor of the treaty, has agreed to provide arms, money, and resources to Egypt and Israel to help them implement the treaty; to provide aerial surveillance services to monitor treaty implementation; to arrange for a multilateral force to police the peace; to guarantee Egyptian compliance with the treaty; to assure a supply of oil for Israel if the Israelis cannot acquire oil on the world market; and to be involved in the West Bank/Gaza negotiations. The Congress has approved the funds to implement the treaty and in the future may be asked to approve other U.S. involvement.

LEGISLATION

P.L. 96-35, S. 1007

Special International Security Assistance Act of 1979. Authorizes the President to provide Israel with $2.2 billion in military credits to upgrade the Israeli Defense Forces and $800 million in military grants to build two air bases in Israel, and to provide Egypt with $1.5 billion in military credits, $200 million in economic grants, and $100 million in economic credits. H.R. 4035 was reported from the House Committee on Foreign Affairs (H.Rept. 96-161) May 15, 1979. S. 1007 was reported to the Senate by the Committee on Foreign Relations (S.Rept. 96-113) May 2, and passed (73-11) by the Senate May 14. On May 30, the House passed S. 1007 in lieu of H.R. 4035, with the text of the House bill inserted. The Senate agreed to the House amendment with an amendment of its own on June 21. The House accepted the Senate amendment on June 28. S. 1007 was signed into law as P.L. 96-35 July 20.

P.L. 96-72, S. 737/H.R. 4034

Export Administration Act of 1979. Contains a provision (section 107) which waives the general restriction against oil exports and allows the United States to export Alaskan oil to Israel. H.R. 4034 introduced as clean bill May 10, 1979, in lieu of H.R. 2539, H.R. 3652, and H.R. 3783. Reported to House from the Committee on Foreign Affairs May 15, 1979 (H.Rept. 96-200). S. 737 was passed by the Senate, amended, July 21; and passed by the House, in lieu of H.R. 4034, Sept. 25. Signed into law (P.L. 96-72) Sept. 29, 1979.

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IB79076

MLC-039

FOREIGN AID: FY79-80 FOREIGN ECONOMIC AND SECURITY ASSISTANCE BUDGETS

...program operated under continuing resolution...

In recent years U.S. foreign economic aid has been aimed more directly at improving the condition of poorest people in less developed countries. The legislation authorizing foreign economic aid for FY79 continued this policy, as has legislation authorizing aid for FY80.

Foreign military assistance (but not cash sales of equipment and services) has been reduced in scope over the past few years and has also been frequently used in a negative fashion -- i.e., through program cutbacks -- as a means of expressing dissatisfaction with the state of human rights in, or the policies of, countries with whom the United States has given military aid.

Overall issues concerning foreign assistance for FY80 included the effectiveness of foreign assistance in advancing U.S. foreign policy goals and the relative priority of foreign assistance programs in a climate of budgetary restraint and adverse economic conditions.

Specific issues concerning development assistance in FY80 included the amount of money to be allocated for economic aid and its distribution among such functional categories as agricultural development, health, education and population programs; the reorganization of U.S. economic aid programs; and the extent to which violations of basic human rights by countries that receive U.S. aid should be grounds for limiting assistance. Much of the foreign assistance debate in the past has centered on U.S. participation in the multilateral development banks and the banks' policies. Debate on the issue continued during consideration of the FY80 authorization and appropriations bills.

Additional Funds in Support of Middle East Peace Agreement

On Apr. 9, 1979, the President submitted to Congress proposed draft legislation to authorize supplemental international security assistance for FY79 in support of the peace treaty between Egypt and Israel, as well as a supplemental appropriations request for the same purposes. The draft legislation authorizes appropriations of $1.47 billion for FY79 to finance programs totalling $4.8 billion.

For Israel, this would authorize appropriations of $800 million for grant assistance to finance defense articles and services for construction of air bases, and $220 million to guarantee $2.2 billion in loans to procure defense articles and services during the period FY79-82.

For Egypt, the bill authorizes appropriations of $150 million to guarantee $1.5 billion in loans to finance procurement of defense articles and services through FY82, as well as $300 million in economic assistance (security supporting assistance).

Congress approved this measure at the funding levels requested by the President in June 1979 (Special International Security Assistance Act of 1979, S. 1007, P.L. 96-35). Appropriations for the programs authorized in S. 1007 were included in the Supplemental Appropriations Act, Fiscal Year 1979 (H.R. 4289, P.L. 96-38, July 25, 1979).

FY80 Budget Request

Of a total initial request of over $13.6 billion (budget authority) for the International Affairs function of the Federal budget for FY80, foreign assistance accounts for about $8.9 billion. Of this amount about $8.3 billion is for economic and financial assistance, and $560 million for security assistance.

The economic and financial assistance total includes about $3.6 billion for indirect foreign assistance through the multilateral development institutions. More than half of this amount is for callable capital to guarantee loans to the more advanced developing countries at commercial rates, and as such is not likely to actually result in expenditures of U.S. funds. Bilateral development assistance to be carried out by the Agency for International Development totals about $1.8 billion, or about a 14% more than FY79. Economic Support Fund and Peacekeeping Operations, primarily to Middle Eastern countries, totaled $2.0 billion--about the same as in FY79. P.L. 480 Food for Peace programs totaled $719 million in budget authority, which would finance about the same level of food assistance as in FY79. The foreign assistance request also included $25 million to establish a

Foundation for International Technological Cooperation. Although Congress eventually authorized $12 million for this activity, it specified that the programs would be carried out within AID and not by the new Institute.

The President requested several supplemental authorizations for FY80 after his initial budget had been submitted. A $50 million supplemental military assistance grant for Turkey was considered by the Senate in the course of its debate on security assistance legislation for FY80. Since the House had already completed work on its version of the security aid bill, the Turkey issue never came before the full House. House and Senate conferees deadlocked on the aid request and for two months no compromise position could be worked out. The Conference Committee finally approved a plan, very similar to that endorsed by the Foreign Relations Committee (but later changed back to the President's proposal by the full Senate) whereby Turkey would receive $50 million in FMS credits and a total of $198 million ($100 million in FY79 and $98 million for 1980) in earmarked ESF programs.

The President also sought additional FY80 funds from Congress for disaster assistance in order to aid the victims of Hurricane David which struck the Caribbean area in September 1979. Congress approved $25 million for this activity and later authorized the transfer of $30 million for disaster aid for famine victims in Cambodia. Congress also approved a supplemental request of $207 million for refugee assistance designed to alleviate the refugee problems in Southeast Asia. A final request for FY80 foreign assistance was approved in late May 1980 when $80 million in ESF programs for Nicaragua and Honduras was authorized.

Foreign Assistance Appropriations

Funds for ESF activity in Central America, as well as for several other FY80 aid programs, were not appropriated by Congress until late in the fiscal year. House and Senate conferees were not able to resolve their differences over the Foreign Assistance Appropriations bill for FY80 (H.R. 4473) during the first session of the 96th Congress. Conference committee meetings resumed in February 1980 and late that month a conference report was filed. However, before the report could be considered, the FY80 budget ceiling, as contained in the second concurrent resolution on the budget, was exceeded and action on all pending appropriation bills was suspended. The budget ceiling problem was not resolved until June 12. Since November 1979, the foreign assistance program operated under a continuing resolution (P.L. 96-123) which provided funds at the level contained in the public law appropriating funds for FY79 or for the amount contained in the House-passed FY80 foreign aid bill (H.R. 4473), whichever is less. New programs not previously funded were not provided for in the continuing resolution.

In a final effort to appropriate funds for some of the newly authorized programs, the House added $43 million for international disaster assistance to the FY80 Supplemental Appropriations Act (H.R. 7542), which passed the House on June 19, 1980. Rather than adding piecemeal appropriations for specific programs through the vehicle of a supplemental appropriation, the Senate Appropriations Committee recommended that the entire text of the conference committee version of the FY80 Foreign Assistance Appropriations Act (H.R. 4473) be added to the supplemental bill. On June 28 the Senate passed H.R. 7542 which included the text of H.R. 4473 (with slight modifications) as agreed upon by the conferees in February.

Senate and House conferees met on the Supplemental Appropriations Act on July 1, but could not agree to include the foreign assistance funds originally in the conference report but now in the supplemental bill. This portion of the measure was reported back to the respective bodies in "true disagreement." On July 2, Representative Clarence Long, on the House floor, offered an amendment to the Senate provision, which included smaller amounts for the FY80 programs. His proposal retained funds for some of the more controversial programs, such as aid to Nicaragua and payments to the international financial institutions, but selectively cut about $550 million from the conference report version of H.R. 4473. The Long amendment represented a funding level about mid-way between that which had been provided by the continuing resolution (P.L. 96-123) and what had been agreed upon by House and Senate conferees in February. The House initially agreed to the Long amendment but during further debate on the supplemental appropriation bill, the House voted to reconsider its action on the Long proposal. Members were concerned with Senate cuts in State revenue sharing programs and decided to reduce the foreign assistance level in order to make room within the constraints of the budget ceiling for these revenue sharing funds. The House finally settled on an amendment offered by Speaker O'Neill which was similar to the original House foreign aid position in H.R. 7542 but included $80 million for the Economic Support Fund to support programs in Nicaragua and Honduras. Total funds appropriated in H.R. 7542 for foreign aid amounted to $134.6 million. As a result, funding levels for the balance of the foreign assistance programs were left at the amounts in the continuing resolution.

After the House vote, the Senate expressed great concern over House action, particularly regarding the elimination of funds for the Export-Import Bank. That institution was close to running out of operating authority for fiscal year 1980. However, due to the impending recess and the prospect of further delaying passage of the $16.6 billion emergency supplemental appropriation bill, the Senate accepted the House amendment and passed H.R. 7542 on July 2. The President signed the bill on July 8 and it became P.L. 96-304.

Increased program authority for the Export-Import Bank was approved in August 1980 with passage of H.J.Res. 589. The House and Senate versions of the measure were far apart as the House proposed a $525.75 million increase in the Eximbank's lending authority, $251 million of which would be for direct loans. The Senate, however, considered this amount to be inadequate and recommended a $1.25 billion increase for Eximbank, all for direct loans. The Senate proposal also stated that only $251 million would be available during FY80 with the balance carrying over into the new year. However, the Senate, on Aug. 18, reluctantly accepted the original House authorizing figures and H.J.Res 589 was signed into law (P.L. 96-334) by the President on Aug. 29, 1980.

Special Central American Assistance Act

In November 1979, the President submitted a request to Congress for $80 million in economic support funds for Nicaragua and Honduras, the former to receive $75 million of the aid. The objective of this economically oriented assistance was to help Nicaragua recover from the devastating effects of civil war and to promote a more stable economy in this key Central American nation. House members who opposed the measure contended that the Nicaraguan government was dominated by Communist factions and successfully added a series of conditions and restrictions to the aid so that the President would be required to make several determinations before supplying the assistance. Although the Administration and the Senate did not support this version of the bill, they were forced to accept the House language when the legislation was blocked from going to a House-Senate conference committee. The full $80 million was authorized in the act but appropriations for this program did not receive final action in Congress until late in the fiscal year. On June 28, 1980, the Senate added these funds to the FY80 Supplemental Appropriations Act (H.R. 7542). The House agreed to include the $80 million in the emergency supplemental bill but stipulated that the funds could not be obligated until Oct. 1, 1980. The measure passed Congress on July 2 and was signed by the President on July 8. The President issued the necessary certification for this Nicaraguan aid to flow (stating that the government of Nicaragua "has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries") on Sept. 12 and further authorized the transfer of $45 million from another ESF account so that some of this aid could be transferred prior to the Oct. 1 date contained in H.R. 7542.

Increased U.S. Participation in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund

In March 1979 the President requested new authorization to increase U.S. participation in three international financial institutions, the Inter-American Development Bank (IDB), the Asian Development Bank (ADB) and the African Development Fund (AfDF). Although the Senate approved the full amount of the Administration's proposal, the House cut over one-third of the requested $4 billion payment. The House twice rejected the conference report which contained the Senate figures before agreeing in May 1980 to levels between those approved by the House and Senate. The final act authorized $3.1 billion for the IDB, ($344 million less than the President's request), $378 million for the ADB ($66 million less than the figure sought) and $125 million for the AfDF (equal to the Administration's request). This action marked the first time that Congress has voted to reduce U.S. commitments to international financial institutions. The President has stated that he will attempt to restore the cuts in future authorization requests.

LEGISLATION

P.L. 96-53, H.R. 3324

International Development Cooperation Act of 1979. Amends the Foreign Assistance Act of 1961 to authorize appropriations for FY80 for international development and economic assistance programs and for the Peace Corps, and for other purposes. Reported from the House Committee on Foreign Affairs (H.Rept. 96-79) on Mar. 31, 1979. Passed the House, amended, by a vote of 200-173, on Apr. 10, 1979. Reported to Senate from Committee on Foreign Relations (without written report) May 15, 1979. Committee on Foreign Relations reported a similar measure, S. 588, to the Senate (S.Rept. 96-137) on May 11, 1979. S. 588 referred to the Committee on Governmental Affairs on May 15, 1979. Reported to Senate from Committee on Governmental Affairs (S.Rept. 96-196) on May 29, 1979. H.R. 3324 passed the Senate, amended, in lieu of S. 588, June 19. Conference report filed in the House (H.Rept. 96-397) July 27; Senate agreed July 31, House agreed Aug. 2. Signed into law (P.L. 96-53) Aug. 14, 1979.

P.L. 96-60, H.R. 3363

State Department Authorizations, 1980 and 1981. Authorizes appropriations for FY80 and FY81 for the Department of State, including migration and refugee assistance, the International Communication Agency, and the Board for International Broadcasting. Reported to House from the Committee on Foreign Affairs (H.Rept. 96-81) on Apr. 4, 1979. Passed the House, amended, Apr. 24, 1979 (roll call vote #99, 256-146). Passed the Senate, amended in lieu of S. 586, May 15. Conference held. Both Houses agreed to file conference report July 31. Signed into law (P.L. 96-60) Aug. 15, 1979.

P.L. 96-92, H.R. 3173

International Security Assistance Act of 1979. Amends the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for FY80, including international narcotics control, military assistance, international military education and training, economic support fund, peacekeeping operations, and foreign military sales credits. Reported from House Committee on Foreign Affairs (H.Rept. 96-70) on Mar. 24, 1979. Passed the House, amended, on Mar. 29, 1979. Referred to Senate Committee on Foreign Relations. Reported to Senate from Committee on Foreign Relations May 15 (without written report). Senate Committee on Foreign Relations reported a similar measure, S. 584, to the Senate (S.Rept. 96-136) on May 11, 1979. H.R. 3173 passed the Senate, amended, in lieu of S. 584, May 22, 1979. Conference held. Conference report filed in the House (H.Rept. 96-495) Oct. 4; Senate and House agreed. Enacted into law Oct. 29, 1979.

P.L. 96-109, H.R. 5218

Caribbean Hurrican Relief Assistance Authorization Act. Amends the Foreign Assistance Act of 1961 to authorize $25 million in special Caribbean hurricane relief assistance. Introduced by Fascell et al. on Sept. 7, 1979, and referred to the House Committee on Foreign Affairs. Reported to the House from the Committee on Foreign Affairs (no written report) on Sept. 18, 1979. Passed House on Sept. 26, 1979. Reported to Senate from Committee on Foreign Relations (S.Rept. 96-367) on Oct. 30, 1979. Passed Senate on Oct. 30, 1979. Signed into law on Nov. 9, 1979.

P.L. 96-110, H.R. 4955

Cambodian Disaster Relief Assistance Authorization Act. Authorizes additional appropriations for migration and refugee assistance for FYs80 and 81 and humanitarian assistance for the victims of the famine in Cambodia. Introduced by Fascel et al. on July 25, 1979, and referred to the House Committee on Foreign Affairs. Reported to the House from the Committee on Foreign Affairs (H.Rept. 96-398) on July 27, 1979. Passed House Oct. 25, 1979. Senate Committee on Foreign Relations reported a similar measure, S. 1668, to the Senate on Oct. 16, 1979 (S.Rept. 96-370). Senate passed H.R. 4955, amended, in lieu of S. 1668 on Nov. 2, 1979. House agreed to Senate amendments, with a further amendment on Nov. 9, 1979. Senate agreed to House amendment. Signed into law on Nov. 13, 1979.

P.L. 96-257, H.R. 6081/S. 2012

Special Central American Assistance Act of 1979. Amends the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America. Introduced by Zablocki et al. on Dec. 11, 1979, and referred to the House Committee on Foreign Affairs. Reported to the House by the Committee on Foreign Affairs (H.Rept. 96-713) on Dec. 18, 1979. Passed House, amended, on Feb. 27, 1980. Senate Committee on Foreign Relations reported a similar measure, S. 2012, to the Senate on Jan. 17, 1980 (S.Rept. 96-552). Passed Senate on Jan. 29, 1980. Conference Committee could not be scheduled and Senate passed H.R. 6081, without amendment on May 19, 1980. Signed into law on May 31, 1980.

P.L. 96-259, S. 662

International Financial Institutions Act. Provides for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. Introduced by Church, by request, on Mar. 14, 1979, and referred to Committee on Foreign Relations. Reported to Senate from Committee on Foreign Relations (S.Rept. 96-135) on May 11, 1979. Passed Senate on May 17, 1979. The House Committee on Banking, Finance, and Urban Affairs reported a similar measure, H.R. 3829, to the House on May 10, 1979 (H.Rept. 96-135). House passed S. 662, amended, in lieu of H.R. 3829 on Mar. 6, 1980. Conference report filed in House (H.Rept. 96-837) on Mar. 20, 1980. House agreed to recommit conference report to the Committee on Conference on Mar. 25, 1980. Conference report filed in House (H.Rept. 96-867) on Apr. 2, 1980. House agreed to recommit conference report to the Committee on Conference, with instructions, on Apr. 17, 1980. Conference report filed in House (H.Rept. 96-974) on May 15, 1980. House agreed to conference report on May 21, 1980; Senate agreed on May 22, 1980. Signed into law on June 3, 1980.

P.L. 96-304, H.R. 7542

Supplemental Appropriations and Rescission Bill, 1980. Makes appropriations for the fiscal year ending Sept. 30, 1980, and rescinds certain budget authorities; also includes supplemental appropriations for foreign assistance and related programs for FY80. Reported to the House from the Committee on Appropriations (H.Rept. 96-1086) on June 11, 1980. Passed House, amended, on June 19, 1980; referred to Senate Committee on Appropriations on June 20, 1980. Reported to the Senate from the Committee on Appropriations (S.Rept. 96-829) on June 23, 1980. Passed Senate, amended, on June 28, 1980. Conference report filed in the House (H.Rept. 96-1149) July 2, 1980. House and Senate agreed to conference report, amended. Enacted into law July 8, 1980.

H.R. 4473 (Long)

Foreign Assistance Appropriations Act, 1980. Makes appropriations for foreign assistance and related programs, including international financial institutions, international organizations, bilateral economic assistance, economic support fund, peacekeeping operations, Inter-American Foundation, Peace Corps, migration and refugee assistance, military assistance, international military education and training, foreign military credit sales, and Export-Import Bank for FY80. Reported to House from Committee on Appropriations (H.Rept. 96-273) on June 14, 1979. Passed House, amended, on Sept. 6, 1979; referred to Senate Committee on Appropriations on Sept. 10, 1979. Reported to Senate from Committee on Appropriations (S.Rept. 96-358) on Oct. 4, 1979. Passed Senate, amended, on Oct. 12, 1979. Conference report filed in the House (H.Rept. 96-787) on Feb. 27, 1980.

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MLC-040

FOREIGN AID: FY81 ECONOMIC AND SECURITY ASSISTANCE PROGRAMS

...faced stiff opposition in Congress...

Following a year in which foreign assistance programs operated under a continuing resolution, the President's FY81 foreign aid budget appears likely to face stiff opposition during congressional consideration. Although both Houses passed a foreign assistance appropriations bill for FY80, the conference report was never brought to a vote and most programs were funded at their FY79 level. Legislation necessary to operate programs in FY81 is experiencing similar difficulties. The authorization bill (H.R. 6942) spent five months in a House/Senate conference before finally being reported and passed late in the session. The appropriations measure (H.R. 7854) was reported to the full House in July 1980, but as opposition to foreign aid mounted, the bill was shelved at least for the 96th Congress.

In the absence of a foreign aid appropriations measure for FY81, Congress enacted a continuing resolution (H.J.Res. 644) on Dec. 15, which provides about $5.9 billion in funds for foreign assistance programs. Programs can operate until June 5, 1981, under this resolution. The bulk of foreign aid will be administered at levels and within constraints of the FY80 foreign assistance appropriations conference report (H.Rept. 96-787), which was filed in the House on Feb. 27, 1980, but never brought to a vote. This unadopted conference report would have provided for a foreign aid program of just over $8 billion. The reduced level of funding contained in H.J.Res. 644 is largely the result of shifting callable capital for the international financial institutions from an appropriation category to a program limitation category and removing money sixth replenishment of the International Development Association. This latter activity has not yet received congressional authorization.

For the first time since 1974, the President submitted a single authorization request for both economic and military assistance. This was done at the request of members of the Senate Foreign Relations/House Foreign Affairs Committees who asked for a single bill during conference consideration in 1979 of the security aid measure. The President's authorization request of $5,305 million was trimmed slightly by Congress to just under $5 billion. Most of the reduction consisted of a new accounting method implemented by Congress for foreign military credit sales and did not result in a lowering of funds in real terms. This compares with an FY80 Administration request of $5,100 million and a congressional reduction to $4,800 million.

In overall budget authority for all foreign aid programs (including assistance to international financial institutions (IFIs) but excluding P.L. 480), $7,603 million was requested in FY81, nearly identical to the FY80 program of $7,639 million. The fact that the President did not ask Congress to appropriate callable capital obligations for the IFIs as had been the practice, however, accounted for a $1,426 million reduction in the FY81 budget. The appropriation bill (H.R. 7854), as reported in the House, called for a $410 million cut in the Administration's program with the largest reduction coming out of the IFI account.

Development Assistance

In recent years U.S. foreign economic aid has been aimed more directly at improving the condition of the poorest people in less developed countries. The legislation authorizing development assistance for FY81 would continue this policy. The Administration's request would have increased the FY80 funding level under the continuing by $287.7 million for a program total of $1,754.7 million. The House Foreign Affairs Committee strongly supported the President's proposed programs and authorized a slight increase in the Executive's request. Not only did the committee endorse the humanitarian objectives of these programs, but it also contended that this aid furthered U.S. economic interests by helping to strengthen the economies of less developed nations. The Senate Foreign Relations Committee, however, acknowledging the pressure placed on the foreign assistance program by the need for Federal budgetary restraint, significantly reduced the President's request for development assistance activities to a level of $1,603.8 million. The functional programs (i.e, agriculture, population, health, education, and energy) were cut by $127.2 million. The committee said that these funds represented the bare minimum necessary to meet the requirements of U.S. foreign policy and strongly urged that they should not face further cuts. Conferees adopted a position closer to the Senate's approving an authorization of $1,672 million. This closely matched the $1,670 million recommended by the House Appropriations Committee in H.R. 7854, but was somewhat higher than the $1,539.8 million included in the continuing resolution.

Military Assistance

The primary emphasis of the military assistance program over the past several years has shifted from one of providing direct aid on a grant basis to a program which makes available loans and credits for the purchase of defense articles and defense services. These loans will ultimately be repaid to the U.S. Treasury. A small grant program for military equipment and training continues primarily for a few countries to which the U.S. has made commitments in order to retain access to base facilities (Spain, Portugal, and the Philippines).

The President's authorization request -- a 7% increase over the level authorized last year -- received general support in Congress. The authorization for the Foreign Military Sales program (FMS), which would guarantee over $3 billion in proposed loans made to foreign countries, was slightly increased by the House. Most of the authorized funds (85%) were intended to support arms sales to Israel and Egypt. The Senate, while approving the total requested by the President, deleted the stipulation that the FMS financing guaranty fund maintain a level equal to 10% of all outstanding contractual liabilities. These loans, however, would still be backed by the full faith and credit of the United States. This would have the effect of removing the requirement to annually authorize funds to guarantee these loans -- only direct credits would continue to need a specific authorization. As a result, the Senate was able to cut the President's request of $734 million by nearly one-third without affecting the FMS agreements proposed by the Administration. The authorization made under this category by the Senate provided for the waiver of repayment for $500 million out of a total of $1.4 billion in loans approved for Israel. House and Senate conferees adopted the Senate's proposal for FMS credit funding but accepted the House-passed aggregate ceiling on 1981 arms sales of $3,116 million. The continuing resolution called for an aggregate ceiling of $3,046 million.

Congress also granted the President a special authority to extend up to $50 million in military aid to any nation if it is in the national security interests of the United States, regardless of any other prohibitions blocking assistance to these nations. The total amount offered under this authority for all countries in any single fiscal year was set at $250 million.

Economic Support Fund (ESF)

This category, made up of commodity import and development-related programs, is designed to meet special economic, political or security interests of the United States. During the past several years, the majority of funds from the ESF have been allocated to the Middle East in support of the peace effort. This objective continues with the FY81 ESF request.

The President's proposed ESF budget of $2,030.5 million is slightly higher than the FY80 authorized level. However, both the House and Senate increased this amount, with the House approving additional funds for Uganda and Tanzania, and the Senate for Zimbabwe. Both bills earmarked funds for Israel ($785 million), Egypt ($750 million), and Turkey ($200 million). The bill, as passed, authorized $2,065 million and, although the Conference Committee did not specify individual country levels for southern Africa, conferees stated that they fully intended that programs in countries included in the Senate and House bills, but not in the President's request, to be funded. The continuing resolution appropriated $2,024.5 million for ESF, earmarking an additional $40 million for Jamaica.

In addition to the specific ESF country program requests, the President asked that a $50 million unallocated contingency account be included in the FY81 ESF authorization. The President cited the importance of a means to "employ, promptly and effectively, foreign assistance to meet unforseen foreign policy and security emergencies." This contingency account, which was adopted in H.R. 6942, is intended to enable the President to respond to an unexpected situation in a more timely fashion without being required to request the reprogramming of funds from planned country programs.

International Financial Institutions

Funds for U.S. participation in international financial institutions (IFIs) are authorized irregularly by Congress, usually in very large amounts. A portion of these authorizations are then appropriated annually over a number of years until the total authorized amount has been reached. The President's appropriations request for U.S. contributions to the IFIs was severely cut for FY80 due in part to the continuing resolution but also as a result of mounting opposition, particularly in the House, to various programs and loans made by the development banks. In order to reduce the amount requested for the banks, the President broke with past practice and requested appropriations for paid-in capital (funds actually transferred to the banks) and asked for a budget limitation on callable capital rather than for actual appropriations. Callable capital serves as a guarantee on the loans extended by the various development banks and although these institutions have never requested payment of U.S.-pledged callable capital, Congress in the past has required that it, as well as paid-in capital, be appropriated.

Without including callable capital (which would add approximately $1.4 billion to the budget), the President's amended request for the international financial institutions, $1,718.2 million, represents about one-half of the amount requested for FY80 and about $618 million less than provided in last year's continuing resolution.

The House Appropriations Subcommittee on Foreign Operations was divided on the issue of whether or not to appropriate callable capital. On a 5-2 vote, the subcommittee agreed to the Administration's change in the accounting method for callable capital and this position was sustained by the full Appropriations Committee. However, the committee slashed the FY81 IFI request by nearly 17% with the Inter-American Development Bank and the International Development Association facing the severest cuts. Despite funding IFIs at the FY80 conference report levels, the FY81 continuing resolution stipulated that callable capital would be carried as a program limitation rather than an appropriation. This callable capital limitation amounts to $1,079 million while the total IFI paid-in and special funds appropriation in the FY81 continuing resolution equals

$519 million. Congress is also considering an authorization bill which would provide additional U.S. participation in the International Development Association ($3,240 million) and the African Development Bank ($359.7 million). With House leaders uncertain over the prospects for this bill, the measure (H.R. 6811) was put off until the 97th Congress convenes.

Aid to Israel and Egypt

Israel and Egypt would receive the two largest sums of the proposed FY81 bilateral foreign assistance, as a complement to the U.S. role in Middle East peace negotiations. For Israel, the executive branch recommended a total of $4,985 million -- $1,200 in FMS credits ($500 million of which the repayment is waived) and $785 million from the ESF. Congressional action on H.R. 6942 increased the FMS credit ceiling for Israel to $1,400 million and stipulated that all ESF funds would be available on a grant bases. These levels were also approved by the House Appropriations Committee.

The Administration's proposed bill included $1,300 million in aid to Egypt -- $550 million in FMS credits and $750 million for ESF programs. Both the authorization and appropriations legislation approved these levels as requested.

African Development Foundation

At the initiative of the House, Congress established the African Development Foundation, which will provide small sums to community groups and institutions in Africa to support local development assistance projects. The Foundation was given a $2 million authorization for FY81 and will expire on Sept. 30, 1985, unless Congress adopts an extension.

Italian Earthquake Relief Aid

In the aftermath of the devastating earthquake that struck southern Italy on Nov. 23, 1980, Congress quickly responded with a $50 million emergency disaster relief authorization (H.R. 8388). The FY81 continuing resolution (H.J.Res. 644) included the necessary disaster assistance funds to carry out this emergency aid.

LEGISLATION

P.L. 96-533, H.R. 6942

International Security and Development Cooperation Act of 1980. Authorized appropriations for FY81 for military and selected assistance and sales programs, development assistance, the Peace Corps, refugee assistance, and other programs. H.R. 6942 was introduced Mar. 26, 1980; referred to the House Committee on Foreign Affairs. Reported to the House (H.Rept. 96-884, Part 1) Apr. 16, 1980, sequentially referred to the Permanent Select Committee on Intelligence; reported to the House (H.Rept. 96-884, Part 2) from the Permanent Select Committee on Intelligence May 1, 1980. S. 2714 was introduced and reported to the Senate (S.Rept. 96-732) May 15, 1980. H.R. 6942 passed the House, amended, by a vote of 221-147, June 5, 1980; H.R. 6942 passed the Senate after being amended to contain the language of the Senate companion bill, S. 2714, as amended, by a vote of 58-32, June 17, 1980. Conference report filed in the House (H.Rept. 96-1471) Nov. 20, 1980; conference report agreed to by voice vote Dec. 2, 1980; conference report agreed to in the Senate by a vote of 58-26 on Dec. 3, 1980; President signed H.R. 6942 into law on Dec. 16, 1980.

P.L. 96-525, H.R. 8388

Authorizes appropriations for international disaster assistance for victims of the recent earthquakes in southern Italy. H.R. 8388 was introduced Dec. 1, 1980; referred to House Committee on Foreign Affairs; Committee on Foreign Affairs discharged from further consideration and H.R. 8388 passed House on Dec. 1, 1980. Referred to the Senate Committee on Foreign Relations; reported to the full Senate (no written report) Dec. 2, 1980; H.R. 8388 passed Senate on Dec. 2, 1980. President signed H.R. 8388 into law on Dec. 12, 1980.

H.R. 7854 (Long)

Foreign Assistance and Related Programs Appropriation Bill, 1981. Makes appropriations for foreign assistance and related programs for the fiscal year ending Sept. 30, 1981. Introduced as an orginal bill and reported to the House (H.Rept. 96-1207) July 29, 1980.

H.R. 6811 (Gonzalez, by request)/S. 2422 (Stone, by request)

Provides for increased United States participation in the International Development Association, and for U.S. participation in the African Development Bank. H.R. 6811 was introduced Mar. 13, 1980; referred to the Committee on Banking, Finance, and Urban Affairs; reported to the House (H.Rept. 96-1015) May 16, 1980. S. 2422 was introduced on Mar. 14, 1980; referred to the Senate Committtee on Foreign Relations. S. 2422 was reported to the Senate (S.Rept. 96-700) by the Committee on Banking, Finance, and Urban Affairs May 16, 1980. S. 2422 passed Senate by a vote of 53-24 June 16, 1980.

Nowels, Larry A.

MLC-041

THE FOREIGN SERVICE ACT OF 1980

...to reorganize and consolidate the Foreign Service...

On June 26, 1979, the Administration sent draft legislation to the Speaker of the House containing a bill "to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes." It was jointly referred to the House Committees on Foreign Affairs and on Post Office and Civil Service, and was introduced as H.R. 6790 on Mar. 12, 1980.

The principal purpose of H.R. 6790 is to reorganize and consolidate the components of the Foreign Service of the United States which now exist in six executive departments and agencies (the Department of State, the

International Communication Agency, the Agency for International Development, the Peace Corps, the Arms Control and Disarmament Agency, and the Department of Commerce) under one law governing foreign service operations and personnel administration, thereby creating more uniform statutory terms and conditions of Foreign Service employment. The bill also adds the Department of Agriculture to the list of agencies authorized to use the Foreign Service personnel system.

The legislation simplifies the personnel categories in the Foreign Service, emphasizes and reaffirms the Foreign Service requirement of worldwide service availability, and establishes a Senior Foreign Service somewhat analogous to the Senior Executive Service for domestic agencies, with rigorous entry, promotion, and retention standards based on performance, including performance pay for outstanding service.

The legislation, as amended, also:

-- eliminates the "domestic" Foreign Service Service category, and provides that Foreign Service members not available for worldwide assignment within 3 years have to transfer to the Civil Service;

-- lifts the mandatory retirement age from 60 to 65;

-- recognizes collective bargaining for the Foreign Service and establishes a formal grievance procedure (formerly provided for in executive orders);

-- permits equal consideration of Foreign Service and Civil Service family members for positions abroad;

-- increases allowances for health care, education, travel, and vacations from hardship posts;

-- establishes a simplified single salary structure for the Foreign Service, containing nine salary classes, but continuing to allow the President to link pay scales to the Civil Service, although with higher salary benefits;

-- provides for pro-rata pensions and survivor benefits for former spouses of Foreign Service employees, effective only for persons becoming former spouses after Feb. 15, 1981; and

-- reaffirms and broadens the coverage of the "up or out" principle: all Foreign Service employees who are not promoted within prescribed time periods will have to leave the Service if not given 5-year extensions.

The legislation will take effect Feb. 15, 1981, except for the provision relating to mandatory retirement. The new retirement age of 65 went into effect the date of enactment.

LEGISLATION

P.L. 96-465, H.R. 6790/S. 3058

Foreign Service Act of 1980. Sets forth the objectives and functions of the Foreign Service. H.R. 6790 was reported to House on May 15, 1980, from the Committee on Post Office and Civil Service, with amendment (H.Rept. 96-992, Part I), and from the Committee on Foreign Affairs, with amendment (H.Rept. 96-992, Part II). The House passed the bill after adopting seven amendments on Sept. 8, 1980. A similar measure, S. 3058, was reported to the Senate (S.Rept. 96-913) from the Committee on Foreign Relations on Aug. 22, 1980, and placed on the calendar in the Senate on Sept. 10, 1980. The Senate considered the bill over three days, and adopted six amendments before passing the bill by voice vote on Sept. 15, 1980. A House-Senate conference committee reported (H.Rept. 96-1432) a compromise version on Sept. 29, and the conference report was adopted by the Senate Sept. 30 and by the House Oct. 1, 1980, both by voice votes, completing congressional action. Signed into law by the President as P.L. 96-465 Oct. 17, 1980.

Woldman, Joel M.

MLC-042

HUMAN RIGHTS AND U.S. FOREIGN POLICY

...human rights provisions attached to foreign aid...

In recent years, international human rights has been a pervasive theme in congressional debate and action. Since 1973 Congress has passed legislation to assure that U.S. foreign policy formulation and practice include consideration of the status of human rights in other countries. Congress has written human rights provisions into bilateral and multilateral economic assistance and security assistance legislation. Congress has limited or cut off assistance to a number of countries. It has established within the Department of State an Assistant Secretary for Human Rights and Humanitarian Affairs to be appointed with the advice and consent of the Senate. Congress also mandated an annual reporting by the State Department on the status of human rights in all other member countries of the United Nations.

LEGISLATION

P.L. 96-53, H.R. 3324

International Development Cooperation Act of 1979. Authorizes and encourages the President in FY80 to use not less than $1.5 million of development assistance funds for activities that will encourage or promote increased adherence to civil and political rights. Prohibits use of funds for any form of aid to Vietnam, Cambodia, or Cuba. Adds to section 502B of the Foreign Assistance Act that notwithstanding any other provision of law, assistance authorized to be appropriated under part I of this Act may be provided to any country if the President finds that "such a significant improvement in its human rights record has occurred as to warrant lifting the prohibitions in furnishing such assistance in the national interest of the United States." Expands the State Department's annual human rights reporting requirement to include other countries which are members of the United Nations. Requires the Secretary of State to report to Congress by Nov. 15, 1979, on the impact on the foreign relations of the United States of reports required by the Foreign Assistance Act on the human rights practices of foreign governments. Enacted into law Aug. 14, 1979.

P.L. 96-60, H.R. 3363
Foreign relations authorizations. Includes a provision relating to nonimmigrant visas whereby the Secretary of State may refuse to recommend a waiver for aliens from signatory countries which are not in substantial compliance with the provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions. The waiver is also "not to apply to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state." Section 408, after stating the congressional finding that it is in the interest of the United States to encourage the development of a multiracial democracy in Zimbabwe-Rhodesia based on both majority rule and minority rights, requires the President to terminate sanctions against Zimbabwe-Rhodesia by Nov. 15, 1979, "unless the President determines it would not be in our national interest to do so and so reports to Congress."

P.L. 96-67, S. 1019
Repealed trade and foreign assistance sanctions against Uganda. (The restrictions had been imposed during 1978 to express U.S. abhorrence at the gross human rights violations of the Amin regime.) Passed Senate May 7, and passed House, amended, in lieu of H.R. 3897 May 21, 1979. Conference report filed in the House (H.Rept. 96-395) July 27. House agreed to conference report Sept. 7; Senate agreed Sept. 11. Signed into law (P.L. 96-67) Sept. 21,1979.

P.L. 96-92, H.R. 3173
Security Assistance Act of 1979. Adds a new section to section 502B of the Foreign Assistance Act, as amended, requiring that the President take into account significant improvements in the human rights record of recipient countries in allocating funds authorized by the Foreign Assistance Act and the Arms Export Control Act provided that such allocation does not contravene any other provision of law.

In its report, the Conference Committee expressed its intent that no funds made available under this authorization be obligated for the benefit of Zaire unless the President receives satisfactory assurances that equipment purchased through credits guaranteed under this authority will not be used ...to violate the human rights of Zairean citizens, and so reports to the Senate Foreign Relations and House Foreign Affairs Committees. Enacted Oct. 29, 1979.

P.L. 96-257, H.R. 6081
Special Central American Assistance Act of 1979. Adds a new section to Chapter 4 of Part II of the Foreign Assistance Act, including the following human rights provisions:

Section 536c stipulates that the President should in furnishing assistance to Nicaragua, take into account the extent to which the Nicaraguan government has engaged in or permitted violations of the right to organize and operate labor unions free from political oppression, of human rights, of the right to freedom of the press, of the right to freedom of religion.

Section 536d directs the President to encourage the Nicaraguan government to respect these rights.

Section 536e states that assistance to Nicaragua shall be terminated in accordance with sections 116 and 502b of the Act if the Nicaraguan government engages in a consistent pattern of gross violations of internationally recognized human rights.

Section 536f requires the Secretary of State to transmit biannual reports to Congress on the status of respect in Nicaragua for human rights, political pluralism, freedom of the press and assembly, freedom of religion, and freedom of labor to organize and bargain collectively.

Section 536k requires the President to terminate assistance to Nicaragua if he determines that its government has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression or in systematic violations of free speech and press.

P.L. 96-259, S. 662
Increases participation in the Inter-American Development Bank, Asian Development Bank, and African Development Fund. This Act amends Section 701 of the International Financial Institution Act of 1977 (P.L. 95-118) by requiring the Secretary of the Treasury to report quarterly to the House Banking Committee and the Senate Foreign Relations Committee on loans considered by the boards or executive directors of these institutions. Reports shall specify, inter alia, the reason for U.S. Government opposition to a loan, if any. The Secretary of the Treasury shall report to the chairmen and ranking minority members of these committees in each instance when the U.S. executive director of these institutions opposes any loan, financial assistance or technical assistance for reasons regarding human rights.

The report shall include: the reasons for such opposition; all policy considerations taken into account in reaching the decision to oppose such loans; a description of the human rights conditions in the country involved; a record of how the United States voted on all other loans to such country during the preceding two years; and information as to how the decision to oppose such loan relates to overall U.S. policy on human rights in such country.

The Secretary of the Treasury shall consult frequently with the designated Congressmen to inform them regarding any prospective changes in policy direction toward countries which have or recently have had poor human rights records.

The President shall direct U.S. governors of the IBRD, IFC, IDA, IDB, ADB to consult with other governors of those institutions concerning adoption of an amendment to the Articles of Agreement of their respective institutions to establish human rights standards to be considered in connection with each application for assistance.

P.L. 96-533, H.R. 6942
International Security Assistance and Development Cooperation Act of 1980.

Section 108(b) requires the President to assess the advisability of exporting to Argentina (notwithstanding the provisions of section 620B of the Foreign Assistance Act which prohibits such exports to Argentina) through commercial channels items with direct civilian application: communications and electronics equipment; transport, utility and training helicopters; trucks and other vehicles; as well as propeller-driven transport, utility, or training aircraft; and defense services related to any of these items. The President is to report the results of this assessment to Congress within 120 days of the enactment of this Act.

Section 119 prohibits military assistance to Nicaragua.

Section 202 restates the conditions on U.S. economic support fund assistance to Nicaragua that are contained in section 536 of the Foreign Assistance Act, as amended by P.L. 96-257 (see above).

Section 305 amends section 116(e) of the Foreign Assistance Act to authorize and encourage the President to use not less than $1.5 million in FY81 to carry out programs and activities to promote adherence to civil and political rights as set forth in the Universal Declaration cf Human Rights.

Section 408 states the sense of Congress regarding East Timor.

Section 701 adds "causing the disappearance of persons" in the definition of gross violation of internationally recognized human rights contained in the Foreign Assistance Act and the Agricultural Trade and Development Act of 1954.

Section 710 states the sense of Congress that: the Interagency Group on Human Rights and Foreign Assistance has been an effective mechanism for coordinating and implementing U.S. human rights policies; the President should consider establishing the Group on a more permanent basis; the Group examine security assistance proposals as well as economic assistance; the President report his recommendations for strengthening the Group before July 1, 1981.

Section 717 prohibits assistance to Cuba, Vietnam, or Cambodia.

Section 719 requires the President to encourage the holding of free, open elections in Uganda and to take into account whether such elections are held in considering assistance for Uganda with funds authorized by this Act.

Section 720 stated that if Zimbabwe receives assistance from funds authorized to be appropriated by this Act, the President shall report to the Committees on Foreign Relations and Foreign Affairs every 60 days after the obligation of such funds on the internal situation in Zimbabwe.

Bite, Vita
IB77056

MLC-043

INDOCHINESE REFUGEE EXODUS: CAUSES, IMPACT, PROSPECTS

...generous international response...

A generous international response averted the starvation and disease of as many as 1 million Khmer in late 1979-early 1980. However, due to continued conflict in Kampuchea and the limitations of a Khmer society brutalized by a decade of war, most analysts estimate that Kampuchea will need external assistance for several years to come. In May 1980, UN officials requested that $262 million be raised for a second phase of humanitarian assistance programs for Kampucheans through Dec. 31, 1980.

International, bilateral, and private voluntary assistance programs are underway for the Khmer inside Kampuchea (Cambodia) (4.2 million), those in the Thai-Khmer border area (600,000), those outside Kampuchea in UN holding centers and refugee camps (200,000), and the Thais displaced (150,000) by those Khmer who crossed into Thailand. The U.S. Government as well as private U.S. citizens have been major contributors to these programs. As of July 1, 1980, the U.S. Government obligated $108,810,500 million for Khmer relief and distributed these funds to agencies in the UN system and several voluntary organizations. Also, approximately $70 million in additional funds have been raised within the United States by private fund drives and private voluntary organizations for relief to the Khmer.

The international aid effort has been reasonably successful on the Thai-Khmer border, where approximately 600,000 to 1 million Khmer have been fed and given medical assistance through the International Committee of the Red Cross (ICRC) and UN Children's Fund (UNICEF) distribution system. By July 1, 1980, more than 100,000 tons of food and medicine, and 23,000 tons of rice seed had been distributed at designated border points. The cross-border feeding operation supplied more than 200,000 persons living in encampments in the border area and another 400,000 to 800,000 persons further inside western Kampuchea who received this aid from those Khmer who travelled each week to the border distribution points by oxcart, bicycle, or on foot, and then returned to the interior. Some international aid was sold on black markets. Some reached Khmer Rouge or other resistance troops, some reached Vietnamese and Heng Samrin forces. The Western aid effort in the border area also maintained those UNHCR (UN High Commissioner for Refugees) holding centers inside Thailand which care for more than 160,000 Khmer.

The Western international aid effort inside Vietnamese-controlled Kampuchea has been hampered by logistic and political considerations, although recently distribution has improved slightly. By July 1, 1980 the Western aid effort delivered to Kompong Som and Phnom Penh, more than 100,000 tons of food, medicine, and rice seed, but only half of it had been distributed to provincial warehouses and still less to the people. Soviet, East European, and Vietnamese humanitarian aid was being distributed in noncontested areas to both civilian and military personnel, although government and military personnel appeared to get larger rations than the ordinary Khmer. But little or no aid appeared to be distributed in areas with populations whose loyalty was suspect by the Vietnamese and Soviet-backed authorities in Phnom Penh.

The refugee exodus from Kampuchea compounded a larger scale Indochinese refugee problem which began in April 1975. Since the establishment of Communist governments in Indochina in 1975, more than 1.8 million refugees have fled their homelands in Vietnam, Laos, and Kampuchea due to poor economic and human rights conditions in those countries. According to some estimates, as many as one-third of these persons died in the search for temporary shelter, and another 1 million may flee in the months ahead. In addition to the Khmer refugees near the Thai-Khmer border, more than 234,000 refugees from Vietnam, Laos, and Kampuchea live in crowded, temporary Southeast Asian camps and transit centers. Approximately 18,399 refugees from Laos and Vietnam arrived in first asylum areas during July 1980. Although more than 886,500 Indochinese refugees have already been permanently resettled in Western countries and China, more than 200,000 resettlement opportunities are needed.

The first-asylum countries view the refugee problem primarily as a major cause of instability in the Southeast Asian region. The concentrations of Khmer refugees in the Thai-Khmer border area often shelter Khmer Rouge and other forces resisting Vietnam's occupation of Kampuchea. Military personnel of all sides attempt to siphon aid directly or indirectly from the camps and border feeding points. These refugee encampments, therefore, are potential theaters of conflict. More than 180,000 Vietnamese troops occupy Kampuchea and maintain the government of Heng Samrin. About 70,000 of these troops are near the Thai-Khmer border where they engage in conflict with the Khmer Rouge and other resistance forces. Fighting occasionally spills over to Thai territory and involves Thai troops. The Vietnamese incursion of Thai territory in June 1980 increased the Association of Southeast Asian Nations (ASEAN) concerns that the Kampuchean conflict might widen into a regional conflict with great power involvement. Vietnam has a treaty relationship with the Soviet Union and is greatly dependent on extensive Soviet aid. The Khmer Rouge are supported by China. The United States, ASEAN members, and China have pledged to counter any threat to Thai sovereignty.

As of Aug. 1, 1980, the major locations of first asylum for Indochinese refugees were: Thailand (142,462 in UN-sponsored camps, 165,000 Khmer in holding centers, and 160,000 in encampments along the Thai-Khmer border); Hong Kong (36,300); Malaysia (20,452), Indonesia (9,050); Philippines (2,746 in camps and 9,230 in reprocessing center); Macau (4,721); and Singapore (3,628). Refugees from Laos and Kampuchea are housed in large numbers only in Thailand.

The major countries of permament resettlement for Indochinese refugees were: the United States (388,802); China (263,000); France (65,417); Canada (58,618); Australia (39,453); West Germany (14,177); United Kingdom (10,001); Switzerland (6,772); Belgium (3,192); Netherlands (3,000); Malaysia (2,000); New Zealand (2,654); and Italy (2,000).

LEGISLATION

P.L. 96-110, H.R. 4955/S. 1668

Supplemental Migration and Refugee Assistance Authorization Act. Included in this law were authorization for funds for "Cambodian Disaster Relief Assistance" under the following headings:

-- $30 million in transfer authority from other disaster funds to aid the Khmer;

-- $30 million in new funds to aid the Khmer (these funds were appropriated in P.L. 96-304, the Supplemental Foreign Assistance and Related Programs Appropriation Act, 1980);

-- P.L. 480 (Food for Peace) commodities were authorized to be used as necessary for aid to Khmer ($43,108,000 million in P.L. 480 funds had been designated for aid to Khmer as of July 1, 1980); and

-- prior obligations incurred for emergency aid to Khmer may be repaid (approximately $5 million spent for aid to Khmer was repaid to original accounts).

Additional aid for the Indochinese refugee program included $207.3 million in FY80 and $203.6 million in FY81, and the law extended through 1981 the overall authorization for U.S. programs aiding Indochinese refugees.

P.L. 96-304, H.R. 7542

Supplemental Foreign Assistance and Related Programs Appropriation Act, 1980. Appropriates $456,241,000 as authorized for refugee and migration assistance, including a supplemental authorization of $207.3 million for U.S. Indochinese refugee programs. Also appropriates $30 million for aid to the Khmer from funds contained under the international disaster funds. Signed into law July 8, 1980.

Niehaus, Marjorie
IB79079

MLC-044

IRAN: EXECUTIVE AND CONGRESSIONAL REACTIONS AND ROLES

...crisis management mechanisms effective?...

Consideration for the safety of American hostages held at the U.S. Embassy in Tehran has thus far shaped much of the U.S. response to the present crisis. Congress has had a limited role during this period, but it will almost certainly become involved in significant oversight activities once the fate of the hostages has been determined. In these activities, attention is likely to focus around substantive questions, such as:

-- Did the Carter Administration take appropriate precautions in admitting the Shah into the United States?

-- Were the Carter Administration's responses to the crisis effectively designed to achieve U.S. interests?

-- What does the crisis suggest about the state of U.S. military and intelligence capabilities?

And procedural questions, such as:

-- Were the crisis management organizational mechanisms used by the Administration effective?

-- To what extent and in what ways should Congress be involved in the resolution of such a crisis?

The congressional role would be much more direct in the event of military hostilities associated with the crisis. Consultation with Congress is mandated under the War Powers resolution, and legislation is required to keep U.S. troops in combat for more than 60 days.

LEGISLATION

P.L. 96-123, H.J.Res. 440

Continuing Appropriations, 1980. Amendment by Rep. Bauman to prohibit funds for military or economic aid to Iran. Passed the House, 379-0, Nov. 13. Passed the Senate, amended, Nov. 15. Conference held; conference report filed in House (H.Rept. 96-646) Nov. 16, to which both Houses agreed. Signed into law (P.L. 96-123) Nov. 20, 1979.

P.L. 96-147, H.J.Res. 458

Requests the President to designate Dec. 19, 1979, "National Unity Day." Passed House Dec. 13. Signed into law by the President Dec. 17, 1979 (P.L. 96-147).

P.L. 96-201, H.R. 6374

Authorizes the President to present a gold medal to Canadian Ambassador to Iran Kenneth Taylor for assisting in the safe return of six U.S. officials from Iran. Passed the House Feb. 12, 1980. Passed the Senate Feb. 21. Enrolled in the House and Senate. Signed into law (P.L. 96-201) Mar. 6, 1980.

P.L. 96-449, H.R. 7085

Hostage Relief Act of 1980. Provides tax relief and other benefits to American hostages in Iran. Introduced Apr. 17, 1980; referred to the Committees on Foreign Affairs, on Post Office and Civil Service, and on Ways and Means. Reported to the House from the Committees on Post Office and Civil Service (H.Rept. 1349, Part 1), on (H.Rept. 1349, Part 2), and on Ways and Means, with amendment (H.Rept. 1349, Part 3), Sept. 19, 1980. Passed House, amended, Sept. 22; passed Senate Sept. 30. Enrolled in House and Senate. Signed into law (P.L. 96-449) Oct. 14, 1980.

H.Res. 493 (Zablocki et al.)

Expresses the sense of the House that the American people and their representatives in government are united in their determination to achieve the immediate, safe, and unconditional release of all United States personnel and calling upon the U.N. Security Council to take all measures necessary to secure such release. Passed the House Nov. 28, 1979.

H.Con.Res. 221 (Bingham)

Declares deep concern of Congress for the welfare of the hostages and belief that after the crisis consideration should be given to appropriate compensation of the hostages for the hardship they have endured and to ensuring that their future career prospects are not impaired. Passed the House Dec. 18, 1979; referred to Senate Committee on Foreign Relations Dec. 19, 1979.

Lowenthal, Mark M.; Collier, Ellen C.
IB80001

MLC-045

NICARAGUA: CONDITIONS AND U.S. INTERESTS

...another Cuba?...

On July 19, 1979, the triumph of radical and moderate opposition forces over Nicaraguan President Anatasio Somoza ended a 46-year-old dynasty and left in its wake the leftist Nicaraguan Government of National Reconstruction. The aftermath of the revolution included the uncertainty of the political future of Nicaragua, and the country's pressing economic needs resulting from 18 months of devastating war and a decade of economic setbacks. In considering whether to grant aid to Nicaragua, both the Administration and the Congress were faced with a number of policy issues.

In general, these issues focused on the following four questions:

(1) Should U.S. aid be used in Nicaragua to strengthen those political forces within the Nicaraguan society that desire a free and democratic Nicaragua, thus preventing "another Cuba?': or

(2) Will U.S. dollars facilitate the building of "another Cuba?';

(3) What effect will U.S. aid to Nicaragua have on neighboring anti-communist governments friendly to the U.S.?

(4) Should the U.S. write off the Nicaraguan government as Communist puppets and seek to isolate them?

The Carter Administration advocated a supportive position toward Nicaragua, and emphasized U.S. assistance as a means of encouraging an independent and democratically restructured Nicaragua. The United States provided some $40 million to Nicaragua's emergency recovery effort and reimplemented $28 million in programs frozen during Somoza's rule. Generally, Congress was cautiously supportive of the Administration's policy position on Nicaragua. On Sept. 11, 1979, Congress approved the Administration's proposal to reprogram $8.8 million for Nicaragua. However, the Administration's request for congressional approval of its proposed FY80 supplemental aid package met considerable opposition in the Congress, particularly in the House.

On Nov. 9, 1979, President Carter announced the reprogramming of $50-70 million and a proposed supplemental aid package as part of the Administration's plan to help strengthen democracy, promote security, and support economic development in the Central American and Caribbean region. The reprogramming included authorizations for the Economic Support Fund program, development assistance, Foreign Military Sales credits and International Military Education and Training for El Salvador, Honduras, and other Central American and Caribbean nations.

In the Administration's supplemental aid package, the President requested $80 million in additional FY80 appropriation for the Economic Support Fund -- $75 million to assist in the reconstruction of the Nicaraguan economy and $5 million for early-impact development projects in other Central American countries, primarily Honduras.

Congressional debate centered primarily on the nature of the Nicaraguan government and its future political direction. Opponents of the Special Central American Assistance Act believed that the Nicaraguan government was already communist-controlled and that U.S. funds would be used in building "another Cuba". They argued further that the proposed aid should go to countries experiencing political turmoil whose governments have traditionally been friendly toward the United States, but whose needs were not addressed in the bill. Congressional proponents of the bill countered that the political situation in Nicaragua was still in flux, that the moderate private sector still had the opportunity to influence the future political direction, and that the Nicaraguan people needed humanitarian assistance. They also pointed out that the needs of anti-communist U.S. allies in Latin America had been addressed in the Administration's reprogrammings.

Although the bills received timely passage in the House and Senate, efforts in the House blocked conference action on the bill. Finally, some three months after passage in both Houses, the Senate on May 19, 1980, agreed to the House bill, H.R. 6081. The Administration and the Senate were both unhappy with the provisions in the House bill aimed at cutting off or restricting aid to Nicaragua if the government engaged in totalitarian practices. However, many felt that passage of the House version was the only way to bring the bill to final action. H.R. 6081 became P.L. 96-257 on May 31, 1980. Although funds were appropriated in July 1980, the law required that they will not be available until Oct. 1, 1980, thereby providing an opportunity for further legislative action in this area.

According to an Aug. 8, 1980, Washington Post article, efforts were being made by some elements within the executive branch to block disbursement of the approved $75 million in aid to Nicaragua. However, on Sept. 12, 1980, President Carter signed the congressional certification required to ensure that Nicaragua is not supporting violence or terrorism, thus clearing the way for the dispersal of the monies by Congress.

LEGISLATION

P.L. 96-257, H.R. 6081

Special Central American Assistance Act of 1979. (Clean version of H.R. 5954.) Amends the Foreign Assistance Act of 1961 to authorize appropriations for economic assistance to Nicaragua and other countries in Central America and the Caribbean. On Dec. 12, 1979, the House Committee on Foriegn Affairs approved President Carter's request for $80 million in supplemental FY80 assistance, of which $75 million is proposed for emergency aid for Nicaragua and $5 million for Honduras. The Committee's report to the House was filed on Dec. 18, 1979 (H.Rept. 96-713). The House approved the measure, as amended, by a vote of 202-197 on Feb. 27, 1980. On May 19, 1980, the Senate passed H.R. 6081 by a 44-35 vote, in lieu of S. 2012. It was signed into law (P.L. 96-257) May 31.

P.L. 96-304, H.R. 7542

Supplemental Appropriations and Recisions Act of 1980. Appropriates funds for the Special Central American Assistance Act. Reported to the House (H.Rept. 96-1086) from the Committee on Appropriations June 11, 1980. Passed the House, amended, June 19; referred to the Senate Committee on Appropriations. Reported to the Senate (S.Rept. 96-829) June 23. Passed the Senate, as amended, on June 28, 1980, including funds for Nicaragua, by a vote of 53-22. Conferees reported out the provisions concerning Nicaragua in disagreement. House adopted an amendment providing funds for Nicaragua by a vote of 199-163. Senate agreed to the House amendment and passed the conference report, 37-19, on July 2, 1980. The appropriated funds for Nicaragua will not be available for obligation until Oct. 1, 1980. Signed into law (P.L. 96-304) by the President on July 8, 1980.

P.L. 96-533, H.R. 6942

International Security and Development Cooperation Act of 1981. On May 28, 1980, the House, by a vote of 267 to 105, deleted $5.5 million ($5 million for military equipment purchases and $494,000 for military training) in military aid for Nicaragua. On June 5, 1980, the House rejected, by a vote of 243 to 144, efforts to delete $25 million in economic aid from the proposed $45 million in economic, food, and development aid for Nicaragua. On June 17, 1980, the Senate passed H.R. 6942 in lieu of S. 2714, by a vote of 58 to 32, after substituting the text of S. 2174. The Senate, on the same day, voted 50 to 38 to eliminate $5.5 million in military aid to Nicaragua. On June 20, 1980, the House disagreed to Senate amendments by voice vote. Conference report filed in the House (H.Rept. 96-1471) Nov. 20, 1980. On Dec. 2, 1980, the House agreed to the measure. On the following day, the Senate approved the measure by a roll-call vote of 58 to 26. The bill was signed into law by the President Dec. 16, 1980.

Roberts, Roslyn
IB80013

MLC-046

NUCLEAR EXPORTS: THE TARAPUR FUEL ISSUE AND U.S. INTERESTS IN SOUTH ASIA

...second shipment delayed...

One of the most consequential congressional decisions on South Asia in recent years was whether to accept or reject the President's decision to sell uranium fuel to India for its U.S.-supplied Tarapur Atomic Power Station.

The issue of further shipments of nuclear fuel and replacement parts to India was joined on May 16, 1980, when the Nuclear Regulatory Commission (NRC) decided by a unanimous vote that it could not approve two pending export licenses for 19.5 metric tons each of low-enriched uranium fuel, and five licenses for replacement parts for the Tarapur station. The Commission's decision was based on its determination that India had not met the export criteria of the Nuclear Non-Proliferation Act of 1978, which requires a non-nuclear weapons state to agree to place *all* its nuclear facilities under inspection and safeguards of the International Atomic Energy Agency (IAEA). India accepts IAEA inspection and safeguards on facilities using foreign-supplied nuclear materials and technology, but not on its indigenous facilites.

Under a 1963 nuclear cooperation agreement with India, the U.S. pledged to provide enriched uranium fuel at commercial terms for the Tarapur complex for a period of 30 years. India, on its part, pledged to use only U.S. source fuel, to maintain international inspection and safeguards on the reactors and spent fuel, and not to reprocess the spent fuel without U.S. consent. India has refused to acknowledge the validity of the new inspection and safeguard requirements of the 1978 Act, and maintains that the U.S. will be in breach of the 1963 agreement if it fails to sell the requested enriched uranium and spare parts.

As provided by the law, the case went to the President when the NRC could not reach an affirmative finding. On June 19, 1980, the President decided to permit the exports, primarily on foreign policy grounds, as allowed for in the 1978 Act.

Supporters of the sale emphasized that terminating nuclear fuel shipments for India's Tarapur Atomic Power Station would be likely to cause a serious deterioration of U.S.-India relations, provide an opportunity for the Soviet Union to supplant the United States and widen further the scope of Indo-Soviet ties. They also argue that rejection of the sale would weaken the strategic position of the United States in a region that, in the wake of the Iranian revolution and the Soviet invasion of Afghanistan, is perceived as more important to U.S. security interests now than in the past. The Administration also contended that denial of the exports would unnecessarily jeopardize existing safeguards on the Tarapur facility.

Opponents of the continued export of nuclear fuel to India placed primary stress on what they saw as a serious weakening of U.S. resolve on a major test case for the 1978 Non-Proliferation Act. Approval of the exports will, in their view, increase the dangers of nuclear weapons proliferation in South Asia, raise broader questions about the determination of the United States to pursue its nonproliferation policy objectives, and encourage other countries that are currently resisting acceptance of the new U.S. conditions for nuclear cooperation. Many opponents of the proposed exports also saw the sale as a positive gesture toward a country that, in their view, has been unsupportive if not actively hostile towards U.S. interests in South and Southwest Asia.

Hearings on the proposed exports have been held by the Senate Committees on Foreign Relations and on Governmental Affairs and by the House Committee on Foreign Relations.

In order to disapprove the sales, the Congress had to pass a concurrent resolution to that effect within 60 days of continuous session following the President's June 19, 1980, notification that he intends to proceed with the exports. This means that the Congress had to act by about Sept. 27, 1980.

On Sept. 10, 1980, the House Foreign Affairs Committee voted by voice vote to report favorably on H.Con.Res. 367 and H.Con.Res. 368, which would deny the pending fuel export licenses but not the licenses for spare parts. The Senate, on the same day, voted 8-7 to report favorably S.Con.Res. 109, which would also deny the two pending fuel export licenses. On Sept. 18, 1980, the House voted 298-98 (roll call vote) to disallow the pending fuel export licenses. In the Senate, however, a resolution of disallowal failed on Sept. 24 by a margin of 46-48. Accordingly, the export licenses are approved.

The first of the two shipments in question was released almost immediately and arrived in India by air on Oct. 7, 1980. The second shipment has been delayed pending future assurances to the Congress via a Sept. 9-10 exchange of letters between Senator Frank Church, Chairman of the Foreign Relations Committee, and Secretary of State Muskie.

The Government of India has strongly criticized the withholding of the second shipment, calling the assurances "conditions extraneous" to the 1963 cooperation agreement, and has threatened to abrogate its part of the agreement if the shipment is not forthcoming. The Indian government has also filed a new license application for fuel to be shipped in 1981.

Both because of the currently withheld second uranium shipment and the pending new export license application, the issue of nuclear exports to India may pose an early test of Reagan Administration policy, and that of the 97th Congress as well, on the 1978 Nuclear Nonproliferation Act and continued uranium exports to India.

LEGISLATION

H.Con.Res. 367 (Bingham et al.)

Disapproves the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM-1569. Introduced June 19, 1980; referred to Committee on Foreign Affairs. Reported favorably by the Committee on Foreign Affairs on Sept. 12. Approved 298-98 (roll call vote #500) on Sept. 18, 1980. Indefinitely postponed in the Senate Sept. 24, 1980.

H.Con.Res. 368 (Bingham et al.)

Disapproves the proposed export to India of low-enriched uranium to India for the Tarapur Atomic Power Station pursuant to export license application XSNM-1379. Reported favorably by the Committee on Foreign Affairs on Sept. 12. Passed by voice vote in the House on Sept. 18. Indefinitely postponed in the Senate on Sept. 24, 1980.

H.Con.Res. 432 (Bingham)

Disapproves the proposed export of low-enriched uranium fuel to India. Passed by voice vote in the House on Sept. 18, 1980. Called up by unanimous consent and failed passage in the Senate on Sept. 24, 1980, 46-48 (roll call vote #440).

Cronin, Richard P.
IB80067

MLC-047

OLYMPIC GAMES: REPERCUSSIONS OF THE AFGHANISTAN CRISIS

...politics and sports...

The Soviet Union's military intervention in Afghanistan represented a bold challenge to the United States and placed considerable strain on the relationship between the two superpowers. A series of policy decisions was announced by President Carter on Jan. 4, 1980 to underline the country's displeasure with the Soviet aggression and his determination to make the Soviet Union pay a penalty for its adventure. Included in these actions was a threat of an American boycott of the 1980 summer Olympic Games in Moscow. The President's Olympic initiative raised a number of questions, such as the appropriateness or adequacy of the boycott threat, the extent to which other countries would join ranks with the United States, and, of course, the extent and character of its potential impact on the Soviet Union. The President's stand was immediately attacked by spokesmen for the International Olympic Committee and the U.S. Olympic Committee (USOC), who argued that politics should be kept out of sports and that a U.S. boycott would seriously threaten the survival of the modern Olympic movement. Support of the boycott initiative, however, was expressed by many prominent individuals, including Members of Congress. Reflecting the groundswell of public interest in the President's boycott threat, a large number of resolutions calling for relocation or boycott of the summer Olympic Games was introduced when Congress reconvened on Jan. 22 for the start of its new session. On Apr. 12, feeling that it must support the President, the USOC voted 2 to 1 to accept President Carter's recommendation that the United States boycott this summer's Olympic Games in Moscow. While alternate Games were being considered, efforts to save the Moscow Olympics were still being pursued. IOC President Lord Killanin met with Soviet leaders and President Carter in May to discuss ways to prevent a widespread boycott -- to no avail. At the opening of the summer Games in Moscow on July 19, it was reported that 65 out of a possible 146 nations had not sent teams to compete. Although 81 nations did participate, 16 of these displayed their opposition to the Soviet intervention in Afghanistan by refusing either to march or to carry their national flags in the opening ceremony.

LEGISLATION

When Congress reconvened on Jan. 22 for its new session, a large number of resolutions calling for relocation or boycott of the summer Olympic Games were introduced. On Jan. 23, the House Foreign Affairs Committee held hearings on the issue, with testimony from USOC President Robert Kane and Deputy Secretary of State Warren Christopher. At the conclusion of the hearings, the committee approved, with only one dissenting vote, H.Con.Res. 249 (see description below).

H.Con.Res. 249 (Zablocki et al.)
Called for the USOC to honor the request of the President that it propose to the IOC that the Moscow Games be shifted to an alternative site or be cancelled in repudiation of the Soviet invasion of Afghanistan. If the IOC rejected the proposal, the resolution urged that the USOC and the Olympic committees of other countries not participate in the 1980 summer Games and instead conduct alternative Games of their own. Passed the House Jan. 24, 1980. Passed the Senate, amended, Jan. 29, with provisions of S.Con.Res. 66 and S.Con.Res. 70 incorporated.

The Senate Foreign Relations Committee held hearings on Jan. 28 to consider a similar resolution, S.Con.Res. 70 (Church et al.). At the end of the day's testimony, the committee voted unanimously to urge Americans not to participate in the summer Olympic Games in Moscow.

The House and Senate resolutions were nonbinding and contemplated no coercive action, such as passport restrictions, to bar travel to Moscow by athletes or spectators.

Lockwood, David E.; Rafferty, William L.
IB80011

MLC-048

PANAMA CANAL TREATIES: IMPLEMENTING LEGISLATION

...Congress insisted on substantial control...

After months of controversy and delay, the House and Senate approved the second conference report on H.R. 111 in late September 1979. This cleared the implementing legislation for the President's signature a few days before the Panama Canal Treaties entered into force on Oct. 1, 1979.

While the Senate had previously approved the Neutrality Treaty and the Panama Canal Treaty in March and April of 1978, by one vote more than the required two-thirds, additional implementing legislation was necessary to create the Panama Canal Commission (a U.S. Government agency), which will operate the Canal until the year 2000, to revise the Canal Zone Code and to provide a transitional judicial system, to provide the mechanism for the establishment of tolls, to determine the operating costs which will serve as the basis for setting tolls, and to provide various benefits for Canal employees.

In general, congressional attention during the debate focused on three versions of the implementing legislation: Administration-proposed bills (H.R. 1716, S. 1024), the Murphy bill (H.R. 111), and the Hansen bill (H.R. 3656).

Under the Administration bills, the Panama Canal Commission would have been established as a Government corporation with a charter to collect and use tolls to operate the canal and make expenditures, including payments to Panama, without appropriations. Tolls would have been set to cover all direct costs of operating the canal, except the discontinued payment of interest on the U.S. investment, and, in the event that windfall profits were earned, up to $10 million per year of "contingency payments" would be paid to Panama in accordance with the Treaty.

Under the Murphy bill (H.R. 111), the Commission would be set up as a regular appropriated fund government agency. Tolls collected by the Commission would be deposited in the Treasury and all expenditures, including payments to Panama, would be made from funds authorized and appropriated by Congress, thereby giving Congress considerably greater control over the operation of the enterprise. In addition, to emphasize U.S. control, the Supervisory Board would be required to act under the direction of the U.S. Secretary of Defense, and, in time of war, the U.S. President would be authorized to appoint a military officer with exclusive control over the canal. With regard to costs, the Murphy bill would have set tolls so that canal users would pay a greater portion of canal operating costs, including interest on the U.S. investment and the costs of liberalized retirement benefits for canal employees, in order to reduce the impact on U.S. taxpayers. Moreover, in the event that profits were earned, many of the indirect costs of implementing the treaties would be repaid to the United States before Panama would be entitled to any "contingency payments." The Murphy bill, while authorizing certain immediate transfers of property under the Treaty, would also have required that the final transfer of the canal in the year 2000 be authorized by Congress at a later date, whereas the Administration bills contained no such provisions on the theory that the transfer was fully authorized by self-executing provisions of the 1977 treaty.

The Hansen bill (H.R. 3656), favored by outspoken opponents of the treaties, was similar to H.R. 111 in most regards except that it provided that the canal would be transferred only on condition that Panama agreed to repay all U.S. costs associated with implementation of the treaties, including payment of the unpaid costs of canal construction.

In short, the controversy focused on the degree of U.S. and congressional control and on the costs to be borne by the U.S. taxpayers.

After considerable legislative jockeying and delay, the House passed the Murphy bill (H.R. 111) with amendments on June 21, 1979, by a 224-202 vote. The Senate version of the bill, however, which was passed on July 26, 1979, followed the Administration bill quite closely, leaving considerable differences to be resolved in conference.

In the first conference, House-Senate conferees agreed to accept the House provisions for running the canal by means of an appropriated fund agency, while dropping the House provisions which the Administration viewed as contrary to the treaties, namely the conditions on treaty-mandated payments to Panama, the requirement for congressional approval to transfer the canal to Panama, and placement of the Canal Commission under the U.S. Secretary of Defense. While this compromise proved to be acceptable to the Senate, the House rejected the conference report on Sept. 20, 1979, by a vote of 192-203, sending the matter back to conference.

In the second conference, the House was able to gain a few more concessions, including clarification that the President would lack authority to transfer the canal to Panama before the year 2000; the requirement that three of the five U.S. members of the Board represent shipping, port and labor interests; an increase of $10 million per year in the canal-related expenses to be paid by canal users; and a statement that the stationing of foreign troops in Panama would constitute a security threat to the canal. With these additional concessions and facing an Oct. 1 deadline when the treaties entered into force, the House and Senate approved the second conference report on H.R. 111, after which the President signed the measure into law (P.L. 96-70) on Sept. 27, 1979.

LEGISLATION

P.L. 96-70, H.R. 111

Establishes the Panama Canal Commission to operate and maintain the Panama Canal. Makes provisions for employees, funds and accounts, claims for injuries, transfer of public property, regulation of shipping and navigation, laws, courts, and cemeteries. Introduced Jan. 15, 1979; referred to Committees on Merchant Marine and Fisheries, the Judiciary, Post Office and Civil Service, and Foreign Affairs. Reported to the House with amendment (H.Rept. 96-98, Part 1) from the Committee on Merchant Marine and Fisheries Apr. 23, 1979. Passed House, amended, on June 21. Reported to the Senate (S.Rept. 96-225) from the Committee on Armed Services, with amendment. Passed Senate, amended, on July 26. First conference report (H.Rept. 96-438, S.Rept. 96-320) approved by Senate (60-35), but rejected by House (192-203) on Sept. 20. Second conference report filed in the House (H.Rept. 96-473) and in the Senate (S.Rept. 96-330) Sept. 24, to which both Houses subsequently agreed. Senate approved (63-32) on Sept. 25, and House approved (232-188) on Sept. 26. Signed into law by the President (P.L. 96-70) Sept. 27, 1979.

H.R. 1716 (J. Murphy et al., by request)

Establishes the Panama Canal Commission to operate and maintain the Panama Canal. Makes provisions for employees, funds and accounts, claims for injuries, transfer of public property, regulation of shipping and navigation, laws, courts, and cemeteries. Introduced Jan. 31, 1979; referred to Committees on Foreign Affairs, the Judiciary, Post Office and Civil Service, and Merchant Marine and Fisheries. Reported to the House (H.Rept. 96-94) on Apr. 11, 1979, in four parts: Part 1 from the Committee on Foreign Affairs; Part 2 from the Committee on Merchant Marine and Fisheries (with provisions of H.R. 111 incorporated), Part 3 from the Committee on Post Office and Civil Service; and Part 4 from the Committee on the Judiciary.

Storrs, K. Larry

GOVERNMENT AND POLITICS

MLC-049

CONGRESSIONAL ETHICS

...first expulsion in a century...

The House of Representatives, on Oct. 2, 1980, expelled Representative Myers for violations of the House Code of Official Conduct, marking the first time that a Member of either House had been expelled in more than 100 years and the first time that a Member had been expelled for corruption in office. This action was the result of Myers' involvement in the FBI's ABSCAM investigation; and was the culmination of one of several investigations and inquiries by the House and Senate Ethics Committees in the 96th Congress into alleged violations of rules by Members.

On Feb. 6, 1980, the House Committee on Standards of Official Conduct and the Senate Select Committee on Ethics both voted to begin separate preliminary inquiries into bribery allegations against some Members. These allegations surfaced in prematurely published accounts of the undercover FBI operation, ABSCAM. The inquiries began in spite of warnings from the Justice Department that congressional investigations could jeopardize several pending criminal cases.

On Feb. 13, 1980, the chairman of the House Committee on Standards announced the appointment of E. Barrett Prettyman, Jr., as special counsel to investigate the allegations of wrongdoing by Members of the House as a result of the FBI undercover operation.

On Feb. 20, 1980, the House Judiciary Committee adversely reported a resolution of inquiry (H.Res. 571), which called on the Justice Department to turn over relevant information on the FBI undercover operation. That resolution was tabled by the House on Feb. 27, 1980.

In addition to former Representative Myers, who was convicted in August 1980 on charges of bribery, conspiracy, and racketeering, three other Members of the 96th Congress were convicted of ABSCAM-related charges in 1980. Representative Jenrette was convicted of bribery and conspiracy in October 1980. Shortly afterwards, the House Committee on Standards of Official Conduct voted that he had violated House rules and began a disciplinary hearing to determine what, if any, punishment to recommend to the House. However, Representative Jenrette resigned from the House on Dec. 10, 1980, and was no longer subject to discipline by the House.

On Dec. 3, 1980, Representatives Thompson and Murphy were convicted. Thompson was convicted on charges of conspiracy, bribery, and receiving an unlawful gratuity; and Murphy of conspiracy, acceptance of outside compensation for the performance of official duties, and receiving an unlawful gratuity. Pursuant to House Democratic Caucus rules, Representatives Thompson and Murphy had to temporarily relinquish their positions as committee chairmen after their indictments pending the result of their trials.

Three other Members of Congress were indicted on ABSCAM-related charges. Representative Kelly went on trial on Dec. 4, 1980, on charges of bribery and conspiracy; Representative Lederer was indicted in May 1980 on charges of bribery and conspiracy; and Senator Williams was indicted on similar charges in October 1980.

In other ethics committee actions in the 96th Congress, allegations have been made against other Members and punishments have resulted in two instances. As a result of a lengthy investigation by the Senate Select Committee on Ethics, the Senate denounced Senator Talmadge of Georgia on Oct. 11, 1979, for financial misconduct. He is the first Senator to be disciplined by the Senate since 1967.

On Mar. 20, 1979, in another case, the Select Committee on Ethics issued a report summarizing its initial review of former Senator Brooke. The panel concluded that no investigation of Mr. Brooke is required since he is no longer a Member of the Senate; and that violations mentioned in the report are not sufficiently serious to justify severe disciplinary actions. The committee, however, did state that there is substantial, credible evidence to conclude that violations within its jurisdiction had occurred.

Finally, on Feb. 6, 1980, the chairman of the Senate Select Committee on Ethics said the staff of the committee would look into published allegations of misconduct by Senator Cannon. These charges had surfaced in published accounts of another FBI investigation, although the Director of the FBI has said in other published reports that there is "no pending investigation against [Senator Cannon]." On July 30, 1980, the Senate Ethics Committee, in a letter to Senator Cannon, announced that the panel had voted unanimously to clear him of allegations of misconduct.

The House Committee on Standards of Official Conduct has also considered a number of cases of alleged violations of House rules. As a result of investigations in the 96th Congress, former Representative Diggs of Michigan and Representative Charles H. Wilson of California were both censured by the House.

Former Representative Diggs was convicted in October 1978 on charges of payroll padding and mail fraud. While appealing his conviction, he was reelected to the 96th Congress. On June 29, 1979, Mr. Diggs appeared before the Committee, admitted to and apologized for violating House rules by using official funds for personal use, agreed to repay the House more than $40,000, and agreed to accept a committee recommendation of censure. As a result, Representative Diggs was censured on July 31, 1979. He is only the second Member of the House to be censured in this century.

On June 2, 1980, the Supreme Court declined to review his conviction; and Mr. Diggs resigned from the House of Representatives on June 3, 1980.

After a lengthy investigation of Representative Wilson, the committee, in December 1979, accused him of 15 counts of alleged violations of House rules. After public hearings in April 1980, the committee voted to sustain eight of the charges and found him guilty of violating House rules on the acceptance of gifts and the use of campaign contributions. A resolution (H.Res. 660; H.Rept. 96-930) recommending his censure was reported and later adopted by the House on June 10, 1980. Mr. Wilson was defeated for renomination earlier in June.

In June 1979, the committee accused former Representative Flood of 25 counts of violating House rules. The panel continued proceedings against him until he resigned from Congress on Jan. 31, 1980.

On Oct. 24, 1979, the House Standards Committee accepted a staff report which stated that there was no evidence to substantiate charges that the former Iranian regime had improperly influenced Members of the House. A subcommittee had been formed and a staff inquiry begun after such charges surfaced earlier this year.

On May 15, 1980, the House Standards Committee reported on its investigation of voting anomalies in the House (H.Rept. 96-991). The panel determined that the instances of two absent Members being recorded as voting were not the result of a failure in the House's electronic voting system, but formal charges against any Members could not be filed because of the lack of corroboration to support these charges. Also in May 1980, the House Standards Committee accepted the findings of a preliminary staff investigation and decided not to hold a formal probe of alleged South African influence peddling directed against Members of the House during the years 1973-1978.

In the 96th Congress, Members, officers, and employees of the House and Senate continued to be governed, with some exceptions, by the amendments to the rules of conduct adopted in the 95th Congress. Both Houses have rules requiring annual public financial disclosure reports, rules restricting the acceptance of gifts, unofficial office accounts, the use of the franking privilege, lame-duck foreign travel, and reimbursements for expenses incurred in connection with foreign travel. The Senate also has rules covering the use of the congressional radio and television studios, the Senate computer facilities, and the political activities of staff.

The Ethics in Government Act of 1978 (P.L. 95-521) became effective in the beginning of the 96th Congress. Its provisions include annual public financial disclosure requirements for officers and designated employees of the three branches of government (including the President, Vice President, and Members of Congress), candidates for Federal office, and Presidential nominees. On Jan. 15, 1979, the House amended its financial disclosure rule (Rule XLIV) so that compliance with this law will fulfill the financial disclosure requirements of this rule. On Aug. 3, 1979, the Senate amended its financial rule (Rule XLII) so that compliance with the law will also fulfill the financial disclosure requirements of its rule. By amending its rule, the Senate eliminated the requirements for GAO audits of its disclosure reports.

The outside earned income restrictions on Members of both Houses and designated officers and employees of the Senate were to take effect in the beginning of the 96th Congress. The House rule (Rule XLVII) has taken effect, but the Senate has voted to delay its rule until 1983, and therefore will only be governed by the statutory limit on outside honoraria (2 U.S.C. 4411).

LEGISLATION

P.L. 96-19, H.R. 2805

Ethics in Government Act Amendments. Seeks to make technical and conforming changes in the Ethics in Government Act of 1978. Introduced Mar. 13, 1979; referred to Committees on the Judiciary, Post Office and Civil Service, and Rules. Passed House May 14, 1979; Senate May 23, 1979; and signed into law (P.L. 96-19) June 13, 1979.

P.L. 96-187, H.R. 5010

Federal Election Campaign Act Amendments of 1979. Includes provisions covering the political activity of congressional staff and the use of unexpended campaign funds by non-incumbent Federal candidates. Amends sections 602, 603, and 607 of Title 18 to comport with existing Justice Department enforcement of these sections. Permits congressional employees to make voluntary political contributions to officers and employers of the Federal Government other than their immediate employer. Provides that inadvertent solicitations of congressional employees will not violate the ban on solicitation. Provides that a contribution received in a Federal building by congressional employees will not be a violation if it is forwarded within 7 days to the appropriate political committee (the latter is intended to cover situations in which a contributor, although not requested to, mails or delivers a contribution to a Federal office). Prohibits all candidates for Federal office from converting unexpended campaign funds to personal use (Members of Congress, however, are still subject to the rules of their respective Houses.) Introduced July 30, 1979; referred to Committee on House Administration. Reported to House (H.Rept. 96-422) Sept. 7, 1979. Passed House Sept. 10, 1979; Senate Dec. 18, 1979; and signed into law (P.L. 96-187) Jan. 8, 1980.

P.L. 96-303, H.R. 6997

Provides for the distribution of the Code of Ethics for Government Service in appropriate areas of Federal buildings. Introduced Nov. 29, 1979; reported from Committee on Post Office and Civil Service (H.Rept. 96-1073); passed House, amended, June 10, 1980; passed Senate, amended, June 13, 1980. House agreed to Senate amendments June 27; signed into law (P.L. 96-303) July 3, 1980.

H.Res. 794 (Bennett)

Calls for the expulsion of Representative Myers from the House of Representatives. Introduced and reported from Committee on standards of Official Conduct (H.Rept. 96-1387, vols. 1 and 2) Sept. 24, 1980; adopted by House Oct. 2, 1980, by vote of 376-30.

Lehmann Amer, Mildred
IB79038

MLC-050

CONGRESSIONAL REFORM–HOUSE (96TH CONGRESS)

...alterations of structure...

With nearly every Congress, structural and operational reforms have been adopted to increase the legislative branch's efficiency and public responsiveness. These changes may entail revisions in institutional rules, practices, and structure, as well as alterations in internal party procedures.

On Jan. 15, 1979, the 96th Congress adopted H.Res. 5, incorporating many of the recommendations made at the December 1978 organizational meetings of the Democratic Caucus. The changes in House Rules were directed at expediting floor activity and amending committee procedures. The Caucus also revised internal party rules concerning floor activity and committee structure and procedure.

Many of the House and Democratic Caucus rules revisions dealt with the size, chairmanships, and memberships of committees. Early in the 96th Congress, House attention focussed on evaluating the need for select committees. Of the five select committees in existence at the beginning of the Congress, three were restablished and two were discontinued. On Mar. 20, 1979, the House created a Select Committee on Committees with a mandate to study the committee system, including the topics of organization, jurisdiction, and staffing.

Following initial committee meetings to review previous reform efforts and to determine the Committee's research agenda, the first effort of the Select Committee on Committees was to design a committee scheduling system aimed at avoiding conflicts in meeting times. The resolution incorporating this design, H.Res. 404, was passed by the Rules Committee on Sept. 19, 1979, and reported to the floor where the proposal is awaiting chamber action. Another Select Committee initiative, a proposal to construct work carrels above Statuary Hall, was formally withdrawn following the defeat of the concept during floor debate on the continuing appropriations bill. The third early committee effort was a recommendation to limit the number of subcommittees per committee and the number of subcommittee assignments per Member. The recommendation, forwarded to party caucuses in accordance with the Committee's authorizing legislation, was endorsed by the Republican Conference on Oct. 23, 1979; the Democratic Caucus took no action.

The Select Committee focussed on energy jurisdiction for several months. Hearings on that topic began on Oct. 30 and concluded on Dec. 6, 1979. Testimony was heard from numerous Representatives and several public witnesses. A proposed resolution to create a standing Committee on Energy (H.Res. 549) was introduced by Representative Patterson on Jan. 30, 1980. The House, on Mar. 25, 1980, voted not to create a new standing committee, choosing instead to expand the energy jurisdiction of the Interstate and Foreign Commerce Committee.

On Apr. 30, 1980, the Select Committee on Committees officially ended its tenure. The panel's final report was issued earlier that month.

LEGISLATION

H.Res. 5 (Wright)

A privileged resolution providing that the Rules of the House for the 96th Congress shall be the Rules of the 95th Congress, as amended by the resolution. Introduced and adopted by voice vote Jan. 15, 1979.

H.Res. 118 (Foley et al.)

Establishes a House Select Committee on Committees to conduct a thorough study of House committees. Introduced and referred to the Rules Committee Feb. 15, 1979; reported on Feb. 28; considered in the House on Mar. 19 and 20; passed the House, amended, by a vote of 208 to 200 on Mar. 20.

H.Res. 404 (Patterson et al.)

Amends House Rules relating to committee scheduling. Introduced Sept. 12, 1979; referred to Committee on Rules. Considered by Rules Sept. 18 and reported Sept. 25, by a voice vote and placed on House calendar.

H.Res. 549 (Patterson, Cleveland et al.)

Amends the rules of the House to establish a standing Committee on Energy. Introduced Jan. 30, 1980; referred to Committee on Rules; passed House, amended, Mar. 25, 1980.

Richardson, Sula; Schneider, Judy
IB79087

MLC-051

CONGRESSIONAL REFORM–SENATE (96TH CONGRESS)

...committee funding procedures revised...

Efforts to secure changes in organization and procedure have been a continuing trend in the history of the Congress. Even in an institution such as the Senate, with a high regard for the role of tradition, organizational and procedural changes have occurred throughout its development. Early in the 96th Congress, the Senate focused its attention on revision of the cloture rule, especially as the rule related to "post-cloture filibusters."

On Jan. 15, 1979, Senator Robert C. Byrd introduced S.Res. 9, a proposal to expedite Senate consideration of legislation. The resolution contained provisions which attempted to limit post-cloture filibusters, as well as to expedite the conduct of business when the Senate was not operating under cloture.

The respective party leaderships appointed committees to study the Byrd resolution and to report their recommendations to the party conferences. There was substantial agreement in both parties that limitations on delay after cloture had been voted were needed. However, significant opposition developed to portions of S.Res. 9 that did not deal with cloture procedures.

On Feb. 7, 1979, the Senate agreed to a unanimous consent request by Senator Byrd to limit consideration only to those portions of his resolution dealing with post-cloture regulations. An alternate resolution, S.Res. 61, embodying these proposals was made in order for purposes of amendment. The agreement stipulated that if a final vote on S.Res. 61 did not occur before 6 p.m. on Feb. 22, 1979, the original language of S.Res. 9 again would become the pending business before the Senate.

On Feb. 22, 1979, the Senate agreed to S.Res. 61 by a vote of 78-16. As finally approved, the resolution establishes a cap of 100 hours of consideration once cloture has been invoked on a measure. At the expiration of the time limit, the Senate would proceed to the final disposition of the measure; no amendments then not pending would be in order. A motion to table, a motion to reconsider, and motions necessary to establish a quorum would be in order, however. The Senate may, by a three-fifths vote, increase the amount of post-cloture time, with the additional time to be equally divided and controlled by the Majority and Minority Leaders, or their designees.

Under the resolution, each Senator is entitled to one hour of time. Senators may yield their time to the majority or minority floor managers of the bill, or to the Majority or Minority Leaders. None of the designated four Senators may have more than two additional hours yielded to him or her. These Senators, in turn, may yield their time to other Senators so requesting. If all available time expires, a Senator who has not yielded time and who has not yet spoken on the matter on which cloture has been invoked, may be recognized for 10 minutes for the sole purpose of debate.

The resolution provides that no Senator shall call up more than two amendments until every other Senator has had the opportunity to call up two amendments. The Chair is directed to recognize Senators who have not called up two amendments, and who wish to do so, in preference to a Senator seeking recognition to call up a third amendment.

After cloture is invoked, the resolution stipulates that the reading of the Journal shall be dispensed with and that the Journal shall be approved automatically for the duration of post-cloture consideration of a measure. Similarly, after cloture is invoked, the reading of amendments available in printed form will be dispensed with routinely.

The former cloture rule made in order amendments introduced prior to the completion of the cloture vote. S.Res. 61 would make in order first degree amendments (amendments to a bill) submitted by 1 p.m. of the day following submission of a cloture motion; second degree amendments (amendments to amendments) would be in order if submitted in writing one hour prior to the cloture vote.

After passing S.Res. 61, the Senate agreed to place S.Res. 9 on the Senate Calendar. The Senate also adjourned, thus completing the first legislative day of the 96th Congress. As Senator Byrd explained, this action would guarantee that if the Senate resumed consideration of S.Res. 9, a two-thirds vote would be required to invoke cloture on the measure.

On Mar. 8, 1979, the Senate adopted S.Res. 93, postponing from Jan. 1, 1979, until Jan. 1, 1983, the effective date for limitations on the outside earned income of Senators and certain senior Senate staff members. The limit on earned income (15% of a Senator's or staffer's salary) was adopted in 1977 as part of the Senate's Code of Official Conduct. S.Res. 93 was introduced on Mar. 7, 1979, and was made the pending order of business by unanimous consent. There was no roll-call vote on final passage. Senators are still limited by statute to honoraria fees of $2,000 per appearance, and a total of $25,000 per annum from such fees.

On Oct. 31, 1979, the Senate adopted S.Res. 271, which eliminated certain congressional class requirements for membership on the Select Committee on Ethics.

On Nov. 14, 1979, the Senate adopted S.Res. 274, which revised the Standing Rules of the Senate.

On Mar. 11, 1980, the Senate adopted S.Res. 281, which revised committee funding procedures.

On Mar. 25, 1980, the Senate by a 96-0 vote adopted S.Res. 389, which consolidated the Senate Rules revised in November 1979.

On Dec. 11, 1980, the Senate passed S.Res. 448, as amended, which extended the life of the Select Committee on Indian Affairs until 1984.

LEGISLATION

S.Res. 9 (Byrd of W.Va.)
Amends various Standing Rules of the Senate. Introduced Jan. 15, 1979. Motion entered Jan. 15, 1979, to proceed to consideration of the resolution. Displaced by S.Res. 61 Feb. 7, 1979. Placed on Senate Calendar Feb. 22, 1979.

S.Res. 61 (Byrd of W.Va.)
Amends Senate cloture rule (Rule XXII). Introduced Feb. 7, 1979. Considered under provisions of unanimous consent agreement adopted Feb. 7, 1979. Passed by the Senate, as amended, Feb. 22, 1979.

S.Res. 93 (Stevens and Moynihan)
Amends Senate Rules relating to outside earned income limitations to delay the effective date until Jan. 1, 1983. Introduced Mar. 7, 1979. The measure passed the Senate Mar. 8, 1979.

S.Res. 281 (Pell)
Revises committee funding procedures. Passed Senate Mar. 11, 1980.

Schneider, Judy
IB79011

MLC-052

CONSULTANTS: FEDERAL GOVERNMENT USE – OR MISUSE?

...insufficient coordination...

Studies and reviews conducted by the Congress, the Office of Management and Budget, and the General Accounting Office have failed to yield comprehensive information on the number of private consultants performing work for the Federal Government or on the dollars spent to support this activity. A 1977 survey of the agencies showed that most of the consultant activity was conducted at the line operation level and that there was insufficient contract coordination within an agency, let alone among agencies. The agencies generally were unable to provide information on the number of contracts, on the aggregate contract costs, on identification or location of reports prepared by consultants, on systematic review of consultant work under contracts, or on the scale of work done by consultants in relation to the agency workforce.

One of the major stumbling blocks in tracking the use of consultants was, and remains, the development of a standard definition of "consultant." Accordingly, since 1977 the Office of Management and Budget has requested agencies to report the level of consultant activity each year; however, the agencies have chosen to interpret the OMB definition of consultant to fit their policies. The result has been inconsistent reporting. Also, in their quarterly reports to the Federal Procurement Data System agencies are required to identify those contracts that are consultant agreements. The interpretation of the definition of consultant is also a problem in this system.

The Senate Subcommittee on Civil Service and General Services and the House Subcommittee on Human Resources held a series of joint hearings during the 96th Congress for the purposes of identifying abuses in the use of consultants and developing legislation to govern the practice. During the course of the hearings, testimony was heard on conflicts of interest; use of consultants for basic governmental functions; contracts being let late in the fiscal year to avoid having unused funds at the end of the budget period; lack of competition in the awarding of contracts; and poor utilization of the products of contracts.

Legislation was introduced to require agencies to advertise their intentions to award a contract, to make available to the public basic information related to the contract, and to provide disclosure of information stating the extent of a consultant's involvement in the preparation of reports under contract. The goals of the legislation were to make for more consistent and comprehensive contract evaluation, and to place limits upon the amount of funds expendable for contracts during the last two months of any fiscal year. None of the bills, however, received floor action.

LEGISLATION

H.R. 7657 (Hanley, by request)

Limits the coverage of 5 U.S.C. 3109 to the employment of individuals as consultants and experts. That section now provides for the procurement, by contract, of individuals and/or organizations to provide consultant services. Introduced June 25, 1980; referred to Committee on Post Office and Civil Service.

H.R. 7674 (Harris et al.)/S. 2880 (Pryor et al.)

Amends 5 U.S.C. 3109, providing for the temporary or intermittent employment of experts and consultants, to require extended control and disclosure of consultant activities under contracts. H.R. 7674 introduced June 26, 1980; referred to Committees on Post Office and Civil Service and on Government Operations. S. 2880 introduced June 26, 1980; referred to Committee on Governmental Affairs.

Gressle, Sharon

MLC-053

FINANCIAL DISCLOSURE: GOVERNMENT OFFICIALS AND EMPLOYEES

...conflict of interest...

The 95th Congress culminated more than 30 years of effort by enacting the Ethics in Government Act of 1978 (P.L. 95-521). This Act, effective in 1979 during the first session of the 96th Congress, now requires annual public financial disclosure reports (practically uniform) from the President, Vice President, Members of Congress, Supreme Court Justices, and officers and designated employees of the three branches of Government, as well as Presidential nominees and candidates for Federal office.

The President, Vice President, and Supreme Court Justices, effective with the disclosures on May 15, 1979, were required to file public reports for the first time, although some had voluntarily done so in the past. Pursuant to the rules of their respective Houses, Members of Congress, senatorial candidates, and officers and designated employees of the legislative branch had been required to file public reports since 1978.

The momentum for public financial disclosure reports from officers and employees of the Government increased following "Watergate," the highly publicized allegations of impropriety by some Government officials, polls indicating a lack of public confidence in Government officials, and the recommendations of the President's Commission on Executive, Legislative, and Judicial Salaries (Peterson Commission), which recommended in December 1976 pay increases for top officials in the three branches along with ethical reforms such as annual public financial disclosures. In addition, dissatisfaction had long been expressed over the lack of uniform disclosure requirements for the three branches of Government, the existing confidential requirements for designated officers and employess of the executive and legislative branches (excluding the President and Vice President), and the absence of requirements for Supreme Court Justices.

In the 94th Congress, a record number (51) of public financial disclosure bills, affecting one or more branches of Government, were introduced. Three of these received action, although insufficient to become law.

In the 95th Congress, President Carter announced support for full public financial disclosure requirements for the three branches of government, and 46 such bills were introduced. H.Res. 287, which amended the House disclosure rule, was adopted on Mar. 2, 1977; and S.Res. 110, which amended the Senate disclosure rule, was adopted on Apr. 1, 1977. S. 555, which included uniform, annual public disclosure requirements for all officers and designated employees of the three branches of Government, passed the Senate on June 27, 1977. The measure passed the House on Sept. 27, 1978, and was signed into law (P.L. 95-521) on Oct. 26, 1978.

With the enactment of the Ethics in Government Act of 1978, the House and Senate were then covered by both their respective disclosure rules (House Rule XLIV and Senate Rule XXXIV) and the new law. To alleviate compliance with two somewhat different requirements, the two Houses subsequently amended their rules so that compliance with the law would constitute compliance with the respective rules. The House adopted H.Res. 5, the Rules for the 96th Congress, in January 1979; and the Senate followed by adopting S.Res. 220 in early August 1979.

LEGISLATION

P.L. 96-19, H.R. 2805

Ethics in Government Act of 1978 Amendments. Signed June 13, 1979, this Act makes certain technical and conforming amendments to the financial disclosure provisions of P.L. 95-521.

H.Res. 5 (Wright)

Contained the House Rules for the 96th Congress and amended Rule XLIV so that, for purposes of financial disclosure, the provisions of Title I of P.L. 95-521, the Ethics in Government Act of 1978, shall be deemed to be a rule of the House as the Act pertains to Members, officers, and employees of the House. Introduced and adopted Jan. 15, 1979.

S.Res. 109 (Weicker)

Official Conduct Amendments of 1979. Sought to change some of the duties of the Select Committee on Ethics and transferred some responsibilities to the Committee on Rules and Administration. Proposed amendments to Senate Code of Ethics. Committees on Governmental Affairs and on Rules and Administration reported S.Res. 109 (S.Rept. 96-417) Nov. 15, 1979. Passed Senate Feb. 1, 1980, after being amended to require the Senate Select Committee on Ethics to conduct a comprehensive review of the Code of Conduct and its enforcement and to report back to the Senate by Feb. 1, 1981.

S.Res. 220 (Morgan)

Amended Rule XXXIV so that compliance with Title I of the Ethics in Government Act of 1978 would constitute compliance with this rule. Reported by Senate Ethics Committee (S.Rept. 96-295); passed Senate Aug. 3, 1979.

Lehmann Amer, Mildred
IB79012

MLC-054

HATCH ACT: PROPOSED AMENDMENTS

...a new approach...

For many years Government employees in the United States have been prohibited, to a considerable extent, from participating actively in partisan political activities. The immediate source of the restrictions is "An Act to Prevent Pernicious Political Activity," as amended, originally passed by Congress in 1939 (53 Stat. 1147), popularly known as the Hatch Act, after its sponsor, Senator Carl Hatch of New Mexico. Initially, the provisions of the Act applied only to Federal employees, but in 1940 amendments were added (54 Stat. 767) so as to include State and local government employees whose principal employment was in connection with an activity funded by the Federal Government as well.

The Act has been amended six other times--in 1942, 1944, 1946, 1950, 1962, and 1974. The Federal Election Campaign Act Amendments of 1974 (P.L. 93-443) contain a provision in Title VI, section 401, that lifts most of the restrictions from State and local government employees who had previously been subject to the Hatch Act's dictum of "no active participation in political management or in political campaigns." In the 94th Congress, H.R. 8617, a bill to amend the Hatch Act, passed both the House and the Senate, but was vetoed by President Ford, and an override attempt failed. In the 95th Congress, several bills to amend the Hatch Act were introduced, and H.R. 10 was approved by the House in June, 1977. On July 19, 1978, the House Committee on Post Office and Civil Service, in reporting the Civil Service Reform Act of 1978 (H.R. 11280/S. 2640) to the House floor, amended the bill by incorporating provisions of H.R. 10 as Title IX of the Act. During floor debate on Sept. 9, 1978, Title IX was ruled non-germane and was stricken from the bill. The ruling was based upon the fact that the title would have added two entirely new classes of employees (postal workers and District of Columbia employees) to the bill.

In the 96th Congress,two bill were introduced relating to Hatch Act reform. In a new approach, H.R. 2400/S. 1758 applied only to Postal Service employees, while H.R. 2401/S. 3031 sought to lift Hatch Act restrictions for most other Federal civilian employees. In other respects, the bills were similar to H.R. 10, as passed by the House in 1977.

A major question raised during debate on amending the Hatch Act: Is the Hatch Act hopelessly out of date, or is the prohibition still relevant to the circumstances of the 1980s?

LEGISLATION

H.R. 2400 (Clay)/S. 1758 (Levin et al.)
The Postal Service Employees' Political Activities Act of 1979. Amends Title 39, U.S. Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes. H.R. 2400 introduced Feb. 26, 1979; referred to Committee on Post Office and Civil Service. S. 1758 introduced Sept. 17, 1979; referred to Committee on Governmental Affairs.

H.R. 2401 (Clay)/S. 3031 (Levin)
The Federal Employees' Political Activities Act of 1979. Amends Title 58, U.S. Code, to restore to federal civilian employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes. H.R. 2401 introduced Feb. 26, 1979; referred to Committee on Post Office and Civil Service. S. 3031 introduced Aug. 6, 1980; referred to Committee on Governmental Affairs.

McMurtry, Virginia
IB75071

MLC-055

LEGISLATIVE APPROPRIATIONS AND CONGRESSIONAL PAY

...continuing resolution adopted...

For the first time in this century a legislative branch appropriations bill was defeated on the floor of the House. On June 7, 1979, the House Committee on Appropriations reported H.R. 4390 (H.Rept. 96-245) providing $952.9 million for the expenses of the House, joint items and related agencies for FY80. Of that amount, $562.9 million was for congressional operations. These figures exclude appropriations for Senate operations in accord with the practice by which each House determines its own house-keeping requirements.

Although the Appropriations Committee's recommendations exceeded FY79 appropriations by $30 million, approximately a 3% increase, the FY80 figure represented a reduction of 8% under the amounts presented in the President's budget. The committee recommended an overall reduction of $82.1 million from legislative budget requests of approximately $1.035 billion for FY80, the largest reduction in a legislative branch appropriation bill ever presented to the House.

H.R. 4390 came up for consideration in the House on June 13, 1979. A major point of contention, and a reason cited for the bill's defeat, centered around the proposed congressional pay raise. H.Res. 312, the rule by which H.R. 4390 was to be debated, recommended limitations on the section in the bill concerned with the pay raise. The Rules Committee proposed that only one amendment to the pertinent section be permitted on the floor, that being one to decrease the maximum cost-of-living raise from 7% to 5.5%. The committee also recommended that any motion to recommit the bill to the Appropriations Committee with instructions to alter the raise be prohibited. After debate on H.Res. 312, in which a number of Members expressed a desire to vote directly on the issue of whether or not to have a pay raise, the House defeated the rule by a margin of 126-292. It then adopted a substitute amendment which permitted a salary freeze to be considered.

During debate on H.R. 4390, an amendment to limit the pay raise to 5.5% was offered, as was a substitute amendment to continue the freeze on salaries of all Federal employees earning $47,500 or more a year. The substitute amendment was defeated by voice vote. Subsequently the amendment limiting the pay raise to 5.5% was agreed to by a vote of 396-15.

Following further debate and a motion to recommit the bill, which was defeated, H.R. 4390 was defeated by a vote of 186-232. Certain Members opposed the bill on principle, believing that the pay raise issue should have been addressed directly. Subsequently, the recommendations for legislative branch appropriations, as embodied in H.R. 4390, were enacted into law, without modification, in H.J.Res. 412, Continuing Appropriations for FY80 (P.L. 96-86).

The question of congressional pay again became an issue in September and October during consideration of resolutions providing continuing appropriations for most Federal departments and agencies for FY80. The first continuing appropriations measure, H.J.Res. 399, contained a House Appropriations Committee amendment providing for a 7.0% pay increase for Members of Congress, Federal judges, and other top-level Federal officials. Although the Committee amendment was agreed to by a division vote of 156-64, the resolution failed to pass the House by a vote of 191-219 on Sept. 19, 1979.

Since a motion to reconsider the vote was not made on Sept. 19, the vote was not made final. As a result, on Sept. 20, the House voted to reconsider the resolution and a second vote on H.J.Res. 399 occurred on that day. The resolution, with the 7.0% pay provision, failed to pass a second time by a recorded vote of 196-212.

On Sept. 21, the House considered a second version of the FY80 continuing appropriations, H.J.Res. 404. The resolution provided for a 5.5% pay increase for Members of Congress, Federal judges, and other top-level Federal officials. After rejecting an amendment to strike the increase for all officials and rejecting a motion to recommit the measure to the Committee on Appropriations, the House passed H.J.Res. 404 by a vote of 208-203 on Sept. 25.

The Senate, however, on Sept. 27, by a vote of 76-11, passed an amended version of H.J.Res. 404 with provision for a 5.5% pay increase for Federal judges and other top-level Federal officials, while freezing the pay of Members of Congress. Prior to final passage, the Senate by voice vote approved an amendment to delay any increase that Members might receive under the resolution until after a general election had occurred.

Conferees accepted a 5.5% pay increase for all top-level Federal officials, as contained in the House-passed version of H.J.Res. 404. The conference report was accepted by the House on Sept. 28, but rejected the same day by the Senate due to disagreement on language regarding abortion funding.

On Oct. 1, the Senate Appropriations Committee approved a revised version of a separate continuing resolution, H.J.Res. 402, with a provision prohibiting any FY80 pay increase for Members of Congress, but allowing a 5.5% pay increase for Federal judges and other top-level Federal employees.

Before acting upon the Senate version of H.J.Res. 402, the House approved a third version of the continuing appropriations, H.J.Res. 412, which provided for a 5.5% pay increase for Members of Congress, as well as Federal judges and other top-level Federal officials.

H.J.Res. 412 also contained the FY80 appropriations for the legislative branch, as reported in H.R. 4390 on June 7, 1979. The amount appropriated for congressional operations was $762,993,400. Appropriations for other congressional support agencies funded in the bill totalled $394,992,000. The entire amount appropriated for the legislative branch was $1,157,985,400. Of that amount, $206,844,000 was appropriated for the Senate; $312,903,900 for the House; $60,152,500 for "joint items;" and $578,045,000 for other congressional expenditures.

On Oct. 12, both Houses agreed to the conference report on H.J. Res. 412, which included the House language providing for a 5.5% pay adjustment. The salaries of Members of Congress were increased from $57,500 to $60,662.50 per annum. H.J.Res. 412 was enacted into law (P.L. 96-86) on Oct. 12, 1979.

During the second session of the 96th Congress, the House considered the FY81 legislative branch appropriations bill (H.R. 7593). On June 17, 1980, the House Committee on Appropriations reported H.R. 7593 (H.Rept. 96-1098), appropriating a new budget obligational authority of $973,738,600, excluding Senate items and funds for the Architect of the Capitol. The amount appropriated for the House of Representatives totalled $338,519,700. The total for congressional operations in Title I was $565,064,600, while the total for other agencies in Title II was $408,674,000. The agencies in Title II include the Botanic Garden; Library of Congress (except Congressional Research Service); Library Buildings and Grounds, Architect of the Capitol; Copyright Royalty Tribunal; Government Printing Office (except congressional printing and binding); General Accounting Office; and Cost Accounting Standards Board.

On July 21, 1980, the House passed H.R. 7593, as amended, by a voice vote. The House retained a committee provision prohibiting the use of Federal appropriations during FY81 for salary increases to Federal officials presently paid $50,112.50 or more per annum, including Members of Congress (who presently are paid $60,662.50 per annum).

Meanwhile the Senate adopted the pay cap provision as contained in H.R. 7593, as an amendment to H.R. 7590, Energy and Water Development Appropriations, FY81. H.R. 7590 passed the Senate on Sept. 10. The amendment was deleted in conference, as Congress subsequently approved H.J.Res. 610, Continuing Appropriations for FY81, with a provision adopting certain provisions of H.R. 7593, as passed by the House on July 21, 1980. The resolution extended the authority for funding of Government agencies and the legislative branch until regular appropriations bills were enacted, but no later than Dec. 15, 1980. As approved by Congress, H.J.Res. 610 sets the funding level for appropriations in the following manner: either the amount recommended in House-passed FY81 appropriations bills, or the FY80 appropriations amounts, whichever is less. Among the provisions of H.R. 7593 approved in H.J.Res. 610 was the prohibition on use of Federal funds for salary increases for Federal officials, including Members of Congress, paid at a rate of $50,112.50 or more per annum. H.J.Res. 610 was enacted as P.L. 96-369 on Oct. 1, 1980.

During the closing days of the 96th Congress, both Houses approved a second Continuing Appropriations Act for FY81, H.J.Res. 644. The resolution, which passed the House on Dec. 13, and the Senate on Dec. 15, 1980, provided funding for most Government agencies whose regular annual appropriations had not been passed. Although both Houses approved an amendment providing for a pay increase of 17% in congressional salaries (to $70,900 from the current rate of $60,662.50), the amendment was deleted in conference. The pay amendment, which would have taken effect on Jan. 1, 1981, would have permitted the same increases for other top-level officials in the executive and judicial branches. President Carter signed the measure into law (P.L. 96-536) on Dec. 16, 1980.

Dwyer, Paul

MLC-056

LEGISLATIVE VETO OF REGULATIONS PROPOSED BY REGULATORY AGENCIES

...debate on constitutionality...

The legislative veto authorizes Congress to review and possibly veto rules that have been issued by Federal regulatory agencies. Exempted from the veto are emergency rules and certain other limited categories of rules. All legislative veto proposals provide for a resolution of disapproval to veto newly promulgated rules before they take effect. In addition, some of these proposals also provide for a resolution for reconsideration to reject newly promulgated rules or to render ineffective existing rules. When this happens, the issuing agency can revise and reissue the affected rule. If the rule is reissued it must be submitted for congressional review and possible veto.

Legislation before the 96th Congress provided for three different ways to adopt a resolution of disapproval. Depending on the proposed legislation, such a resolution could be adopted by (1) a concurrent resolution, which needs the approval of both Houses (referred to as a two-House veto); (2) a modified concurrent resolution, which needs the approval of both Houses or of only one House if the other House does not disapprove the resolution (referred to as a one-and-a-half-House veto); or (3) a single resolution, which needs the approval of one House only (referred to as a one-House veto). A resolution for reconsideration could be adopted either by a modified concurrent resolution or a simple resolution.

To veto a new rule, a disapproval or reconsideration resolution must be adopted within a specified period after the rule is submitted to Congress for review. If the mechanism used is a simple resolution, the time period varies between 60 and 90 days. If a concurrent resolution or modified concurrent resolution is used, it must be passed by at least one House within 60 days and must be approved (if it is a concurrent resolution) or not disapproved (if it is a modified concurrent resolution) by the other House within the next 30 days. To render an existing rule ineffective, a resolution for reconsideration also must be passed within a specified period from the time the resolution is introduced.

The proposed bills contained provisions for expedited procedures to assure that a resolution could be voted on within the specified time period. These procedures included motions to discharge a committee from consideration of a resolution and to force consideration of the resolution on the floor. In addition, certain restrictions were placed on debates and amendments affecting the resolution.

There is considerable debate about the constitutionality of the legislative veto because the President is excluded from what many observers consider to be a law-making process.

LEGISLATION

Concurrent Resolution of Disapproval (two-House veto)

P.L. 96-252, H.R. 2313

Federal Trade Commission Improvements Act of 1980. After 3 years of stalemate because of House-Senate disagreement over a legislative veto provision, an authorization bill for the FTC was finally passed and signed into law on May 28, 1980. Under a compromise worked out by House and Senate conferees, P.L. 96-252 contains a legislative veto provision in the form of a concurrent resolution of disapproval applicable to all newly promulgated rules of the FTC. The law also contains a provision that is designed to expedite the judicial review of any challenge to the constitutionality of the legislative veto. No provision exists for a resolution for reconsideration.

Modified Concurrent Resolution (one-and-a-half-House veto)

H.R. 1776 (Levitas)

Administrative Rule Making Reform Act. Resolutions of disapproval and resolutions for reconsideration were provided for in this bill. A disapproval resolution could have been adopted by a modified concurrent resolution, while a reconsideration resolution would have required only a simple resolution. Following hearings on H.R. 1776 and on H.R. 512 and H.R. 601 (discussed below), the subcommittee recommended that the legislative veto be embodied in a joint resolution rather than a modified concurrent resolution. Use of a joint resolution would have involved the President in the process, thereby avoiding the constitutional question that now surrounds the legislative veto. Hearings held by Subcommittee on Rules of the House in May, July, September, October, and November 1979. [Identical and similar bills: H.R. 343 (Ginn), H.R. 565 (Mazzoli), H.R. 1107 (Quillen), and S. 410 (Nunn)]

Other Legislative Veto Type Bills (Joint Resolution)

S. 1945 (Levin)

Agency Accountability Act of 1979. Unlike the above bills, S. 1945 would have involved the President in the legislative veto process. Newly promulgated rules would have been vetoed if both Houses adopted a joint resolution of disapproval and (1) the President signed the resolution, or (2) the President vetoed the resolution and Congress overrode that veto. The bill had no provision for a resolution for reconsideration. Ordered reported to Senate by Committee on Governmental Affairs May 8, 1980.

Garcia, Rogelio

MLC-057

LOBBY ACT REFORM

...possibility for compromise...

In the 96th Congress, THE House Judiciary Committee reported a lobby disclosure bill, H.R. 4395, on Oct. 26, 1979. he bill did not receive consideration on the House floor. The Senate Governmental Affairs Committee held several days of hearings to consider disclosure bills, most notably S. 1564 introduced by Senator Chiles. No action was taken, however.

Under the Judiciary Committee's bill, organizations were required to register and make quarterly reports of their activities if (1) they make expenditures of $5000 or more in a quarterly filing period to retain one or more individuals to conduct lobbying activiites, or to prepare or draft lobbying communications; or (2) if the organization employs at least one individual who, on all or part of each of 13 days in a quarterly filing period, or two or more individuals each of whom, on all or any part of each of seven days or more, conducts lobbying activities on behalf of the organization, and if the organization spends more than $5000 for such activities. Certain activities were specifically excluded from the bill. In contrast to other measures, H.R. 4395 did not call for either disclosure of significant contributions to the lobbying organization or disclosure of "grass-roots" lobbying activities. Unlike previous measures, administrative responsibility was placed with the Clerk of the House rather than the Comptroller General. The Justice Department was responsible for enforcing the measure.

Under S. 1564, an organization was required to register and file quarterly reports if it either (1) spends more than $500 during a quarterly filing period either on retaining one or more outside agents to make lobbying communications, or for the benefit of a Federal officer or employee; or (2) employs one person who, on all or part of each of 13 days or more (or two or more persons each of whom on all or part of seven days or more) in a quarter, makes lobbying communications *and* spends more than $500 during the quarter for lobbying purposes. Certain activities were specifically exempt from disclosure. The bill included both a contributor's disclosure and a "grass-roots" reporting provision. The Comptroller General was given administrative authority and the Attorney General was responsible for enforcement. The bill prescribed only civil penalties for violations.

LEGISLATION

H.R. 4395 (Rodino et al.)

Public Disclosure of Lobbying Act of 1979. An organization must register and file quarterly reports if it either: (1) spends more than $5,000 in a quarter to retain an outside agent to prepare, draft or make lobbying communications; or (2) employs one person who on all or part of 13 days or more (or two or more persons each of whom on seven days or more) in a quarter makes lobbying communications *and* spends more than $5,000 in the quarter on such communications.

The Act does not apply to the following: (1) communications by an individual for a redress of grievances, or to express an opinion; (2) communications submitted in a report or the public record of a congressional hearing; and (3) communications which concern only the existence of a bill, resolution, treaty, nomination, hearing, report, or investigation.

Quarterly reports must consist of the following: (1) an itemized listing of each expenditure over $35 for the benefit of any Federal officer or employee, and an identification of the beneficiary (when the expenditure is by an agent of the organization who is reimbursed or is treating the cost wholly or partially as a tax deduction); (2) a listing of expenditures for receptions or similar events held specifically for the benefit of one or more Federal officers or employees, where the cost of the event exceeds $500; (3) a description of 15 or fewer issues on which the organization spent "the most significant amount of its efforts;" and (4) an identification of persons retained by the organizations and their expenditures.

The Clerk of the House is responsible for administering the Act and is empowered to perform the following duties: (1) develop filing, coding and cross-indexing systems of registrations and reports; (2) make copies of registrations and reports available to the public; (3) compile, summarize and analyze quarterly reports; (4) prescribe rules, forms and procedural regulations as necessary, subject to congressional veto; (5) provide assistance on the recordkeeping, registration and reporting requirements of the Act; and (6) make reports to the Attorney General when the Comptroller General has reason to believe that an organization has failed to comply with the Act.

Enforcement is vested in the Attorney General. Civil penalties only are prescribed for violations. Introduced June 6, 1979; referred to Committee on the Judiciary. Reported to House (H.Rept. 96-590) Oct. 16, 1979.

S. 1564 (Chiles)

The Lobbying Disclosure Act of 1979. Similar to H.R. 4395, with the following exceptions:

An organization must register and file quarterly reports if it either (1) spends more than $500 during a quarterly filing period (A) on retaining one or more outside agents to make lobbying communications or for the express purpose of drafting such communications, or (B) for the benefit of a Federal officer or employee, or both; or (2) employs one person who on all or part of each of 13 days or more (or two or more persons each of whom on all or part of seven days or more) in a quarter, makes lobbying communications *and* spends more than $500 during the quarter for (A) the lobbying-related portion of their employment, or (B) for the benefit of a Federal officer or employee, or both.

Quarterly reports require disclosure of "solicitations" -- defined as "any communication directly urging, requesting or requiring another person or affiliate of the reporting organization to advocate a specific position on a particular issue and seek to influence a Member of Congress with respect to such issue" -- costing more than $500 individually, when the cost of all solicitations made by the reporting organization exceeds $2,500 in the quarter. Introduced July 24, 1979; referred to Committee on Governmental Affairs. Hearings held Sept. 26, 1979.

Sachs, Richard C.
IB75034

MLC-058

POSTAL SERVICE REORGANIZATION

...most significant bill dies in the Senate...

Legislation introduced in the 96th Congress would have either reformed or repealed the Postal Reorganization Act of 1970, eliminated the Private Express Statutes, and required a number of other structural changes in the operation and administration functions of the U.S. Postal Service. The most significant bill considered in the 96th Congress was H.R. 79, The Postal Service Act of 1979. Among other things, H.R. 79 would have (1) abolished the Postal Board of Governors; (2) provided for Presidential appointment of the Postmaster; (3)authorized increases in the appropriation from $920 million annually for FY80, FY81, FY82 and beyond in the total amount of $1.1 billion, $1.2 billion, and $1.3 billion, respectively; (4) extended the phasing of rates for commercial and non-profit organizations; (5) established uniform size and weight limits for parcel post (4th class); and (6), authorized the Postal Rate Commission to make final decisions on rates fees, mail classifications, and other relevant postal matters. H.R. 79 passed the House on Sept. 7, 1979 by a vote of 350 to 14. The bill was sent to the Senate, and referred to the Governmental Affairs Committee. It was not reported out of that committee.

LEGISLATION

H.R. 79 (Wilson)

Postal Service Act of 1979 amends the Postal Reorganization Act to replace the Board of Governors with a presidentially-appointed Postmaster General and Deputy Postmaster General. Sets forth the authority of the Postmaster General. Authorizes the Postal Rate Commission to make final decision on rates, fees, mail classification, and other specified matters. Authorizes appropriations to assist the Postal Service in maintaining public services. Directs the Postal Service to submit to the appropriate committees of Congress an annual report on research and development activities conducted. Directs the Postmaster General to submit an annual report to the President and to specified congressional committees on Postal Service operations. Extends the period for the phasing in of rates for certain classes of mail. Directs the Commission to prepare and submit to the President an annual budget of its expenses. Authorizes the Postal Service to establish size and weight limitations for mail matter by following the same procedures for making mail classification changes. Permits schools, libraries, and nonprofit organizations to mail books, films, sound recordings, and other types of educational materials at the "library" rate. Includes teaching aids, guides, and catalogs as eligible for such rate. Stipulates that this Act shall not be construed to affect any current or future collective bargaining agreement, or the authority of the Postal Service to bargain collectively. Requires special preference in the selection of postmasters in towns with a population of 25,000 or less. Provides that the Postmaster General be required to make a progress report on electronic mail to Congress. Introduced Jan. 15, 1979; referred to Committee on Post Office and Civil Service. Hearing held by Subcommittee on Postal Operations and Services Mar. 6, 1979. Hearings were held jointly by the Post Office and Civil Service Subcommittee on Postal Operations and Services and the Postal Personnel and Modernization on Mar. 13, 15, 21-22, 1979 and continuing. Joint markup of H.R. 79 was held on Apr. 4, 1979. Reported to House amended, May 8 (H.Rept. 96-126). Passed House Sept. 7, 1979 by a vote of 350-14.

McCalip, Bernevia

MLC-059

SUNSET LAWS: ESTABLISHING SYSTEMATIC OVERSIGHT PROCEDURE

...a recurring issue...

In the effort to increase Government accountability and to curb the growth of "big Government," a variety of techniques to improve legislative oversight capabilities are being considered. One such oversight procedure, which has been receiving major attention at both State and Federal levels, is sunset legislation, which provides that programs and agencies would automatically terminate on a periodic basis unless explicitly renewed by law. Beginning with Colorado in April 1976, 34 States have enacted sunset laws, and sunset proposals have been under consideration in a number of others. At the Federal level, over 70 sunset bills were introduced in the 94th Congress. Many of these same bills, along with revised versions and entirely new proposals, were reintroduced in the 95th Congress. On Oct. 11, 1978, the Senate, by a vote of 87 to 1, passed S. 2, a sunset bill.

During the 95th Congress, attention focused on S. 2, the Program Evaluation Act of 1977. The Senate Subcommittee on Intergovernmental Relations reported S. 2, as amended, to the full Committee on Apr. 28, 1977, following six days of hearings. The Governmental Affairs Committee, on June 28, 1977, voted to report S. 2, as further amended, to the full Senate. Subsequently, S. 2 was rereferred to the Rules Committee, which held hearings and voted to report the bill, as further amended, on June 21, 1978. After agreeing to further changes in the bill, the Senate passed S. 2 on Oct. 11, 1978. The House Government Operations Subcommittee on Legislation and National Security held a 1-day hearing on sunset legislation in the fall of 1977. The House Subcommittee on Rules and Organization of the House held hearings on sunset proposals on June 23 and July 31, 1978. However, no further action occurred.

Over 70 sunset bills were introduced in the 96th Congress. On Apr. 4, 1979, the House Rules Subcommittee on the Legislative Process began hearings on sunset legislation. The Senate Governmental Affairs Committee began hearings on sunset legislation on June 7, 1979. In November 1979, Representative Long of La., chairman of the House Rules Subcommittee on the Legislative Process, introduced H.R. 5858. This bill emerged from several months of hearings by the subcommittee and was said to represent a combined approach to oversight. The Subcommittee reported H.R. 5858, as amended, on May 6, 1980. The Senate Governmental Affairs Committee completed markup and voted to report S. 2, as amended, on June 17, 1980. The Senate Rules Committee completed mark-up and voted to report S. 2, with additional amendments, on Sept. 4, 1980.

Proponents assert that sunset laws would improve the legislative process by instituting a procedure to manage growth of uncontrollable spending, reduce the number of duplicative agencies and programs, and refine oversight. Sunset critics often raise the question of the potential workload, severely straining if not overwhelming the capabilities of committees, or leading to relatively useless, perfunctory reviews.

Another criticism of sunset proposals is that certain types of programs would be particularly vulnerable to sunset review, because of their generally diffuse and unorganized constituencies. Thus, for example, programs relating to social welfare or consumer interests might be allowed to terminate, while programs of possibly less intrinsic value, but of special concern to more powerful interest groups might be renewed. Proponents of sunset respond that only budget authority would lapse. The organic statutes underlying social programs, for example, would remain law and a program could be revived through the restoration of funding.

In reaction to concerns with the potential workload and possible elimination of popular social programs that might occur under a comprehensive sunset bill containing an automatic termination provision, alternative bills have been drafted. In the 96th Congress, H.R. 5858 and S. 2, as reported by the Senate Committee on Rules and Administration, contained scaled-down requirements for coverage or the review process and no automatic termination. Advocates of these bills said the more flexible, reduced scope would result in a smaller number of more meaningful reviews. Opponents said that such "watered-down" versions lacked the essential components that distinguish the sunset approach from past, less effective oversight requirements -- an action-forcing mechanism and a mandate for comprehensive reviews.

Still another item in dispute among supporters of the different sunset bills is whether tax expenditures should be included. Tax expenditures refer to revenue losses to the Federal Government resulting from special exclusions, exemptions, or deductions from gross income, or special tax credits, preferential rates, or deferrals of liability. The Congressional Budget Office in 1980 cited 92 provisions currently considered as tax expenditures, with an estimated cost of over $200 billion in lost revenues. Advocates of inclusion note that tax expenditures simply provide a different mechanism for achieving particular policy objectives and thus should be reviewed along with related direct-expenditure programs. Critics of this view observe that to subject tax expenditures to automatic termination every few years would create so much uncertainty as to undercut their utility as incentives for particular behavior on the part of the taxpayers.

Over 70 sunset bills were introduced in the 96th Congress. H.R. 5858 was reported by the House Subcommittee on the Legislative Process. S. 2, as amended, was reported by the Senate Committees on Governmental Affairs and on Rules and Administration.

LEGISLATION

H.R. 5858 (Long et al.)

Sunset Review Act of 1979. Establishes a procedure for periodic review of all Federal programs and tax expenditures, with a timetable geared to the existing congressional budget process. Requires that all legislative committees in the House and Senate develop, adopt, and submit "committee review agendas" by Mar. 1 of the first session. Each agenda to list programs and tax expenditures which the Committee intends to review during the Congress. Encourages long-range planning of reviews by requiring committees to provide plans for program reviews during the next three Congresses along with their "committee review agendas." House Committee on Rules and Senate Committee on Rules and Administration to merge committee agendas into "consolidated review agenda," which must be adopted by Congress in the form of a concurrent resolution by Mar. 30 of the first session. Contains special floor procedures to expedite consideration of the consolidated agenda and amendments thereto. Directives in the consolidated agenda require each committee to report by May 15 of the second session legislation modifying, continuing, or terminating the programs of tax expenditures under their jurisdiction included in the agenda. Requires that committees include specific analytical and evaluative information in their review reports accompanying such legislation. Joint report may be issued by committees exercising concurrent jurisdiction over a program scheduled for review. Act further provides for the preparation of a comprehensive program inventory listing programs by committee jurisdiction and assigning to each program an official name and unique identification number. Inventory to be jointly developed and maintained by the House Rules and Senate Rules and Administration Committees, with assistance from the General Accounting Office. Authorizes and directs executive and legislative agencies to provide committees with program information and to assist them in conducting the reviews. Introduced Nov. 9, 1979; referred to Committee on Rules. Hearings held Nov. 27, 29, Dec. 5, 1979. Reported, with amendments, by Subcommittee on Legislative Process May 6, 1980.

S. 2 (Muskie et al.)/H.R. 1700 (Blanchard et al.)
Sunset Act of 1979. Title I: Reauthorization of Government Programs. Establishes a 10-year cycle for authorization of budget authority and review of all Government programs, grouped according to functional budget categories, except interest on the Federal debt, Social Security and federal retirement and disability programs, Medicare, civil rights programs and enforcement, judicial administration, veterans' benefits, and income tax refunds. Ensures adherence to schedule by making reauthorization proposals contrary to its provisions out of order. Title II: Program Inventory. Requires the Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, to prepare and revise periodically an inventory of Federal programs. Title III: Program Reexamination. Requires each committee of the House and of the Senate to periodically conduct comprehensive reviews of selected programs or groups of programs under its jurisdiction and to prepare reports containing findings, recommendations, and justifications. Title IV: Citizens' Commission on the Organization and Operation of Government. Authorizes creation of an independent Hoover-type commission. Title V: Regulatory Impact. Requires the President over a 10-year period to submit once in each Congress an analysis of and legislative plans for reform of regulatory agencies, according to a stipulated schedule, so as to ensure that Federal regulations are subject to comprehensive review and necessary modifications. Title VI: Government Accountability. Requires the President to submit at the beginning of each Congress a management report on the executive branch, including a designation for each program as "excellent," "adequate," or "unsatisfactory," and a ranking of all the programs according to their relative effectiveness. Title VII: Miscellaneous matters. S. 2 introduced Jan. 15, 1979, referred to Committee on Governmental Affairs. Hearings by full Committee held June 12, 13, 14, July 12, 24, 1979. Reported to Senate (S. Rept. 96-865) July 24, 1980. Referred to Committee on Rules and Administration July 25, 1980, with instructions to report back by Sept. 4, 1980. Reported to Senate by Rules Committee, with additional amendments, Sept. 4, 1980. H.R. 1700 introduced Jan. 31, 1979; referred to Committees on Government Operations and on Rules.

McMurtry, Virginia
IB76049

MLC-060

VETOES: 96TH CONGRESS

...Congress overrides Carter's third and fourth vetoes...

During the 96th Congress, President Carter vetoed five bills. The first veto came on Jan. 2, 1980, when President Carter rejected S. 2096 (An Act requiring the Secretary of Health, Education, and Welfare to study the long-term effects of dioxins on humans). S. 2096 contained a legislative veto provision and Carter had gone on record opposing the legislative veto as unconstitutional.

On Mar. 22, 1980, the President vetoed H.R. 5235 (Uniformed Health Professionals Special Pay Act of 1980) because he felt "the Congress unnecessarily expanded the scope and costs of H.R. 5235," making the legislation far more expansive than the proposal offered by the Carter Administration.

Congress did not attempt to override either veto.

The third veto occurred on June 5, 1980, when President Carter returned to Congress without his signature H.R. 7428, the Public Debt Limit Extension Act. The President objected to "an unrelated and wholly unacceptable amendment which would prohibit the imposition of the oil import conservation fee that [Carter] announced as part of [his] comprehensive anti-inflation program." Later that same day, the House overwhelmingly voted (335-34) to override the veto. The Senate followed suit on June 6, marking the first time since 1952 that a Democratic Congress overrode the veto of a Democratic President.

On Aug. 22, 1980, the President vetoed H.R. 7102 (Veterans Administration Health Care Admendments of 1980) because the measure provided for a 38% salary hike to VA doctors. Carter felt the increase was "unwarranted." The House overrode the President's veto on Aug. 26, 1980, by a vote of 401-5. The Senate overrode the veto later in the day by a vote of 85-0. Thus, H.R. 7102 became P.L. 96-330.

S. 1464, a bill directing the Secretary of the Interior to acquire certain lands on behalf of the Chippewa Indians in Minnesota, was vetoed by President Carter on Oct. 11, 1980, because he felt that the Interior Secretary already had the authority to purchase land on behalf of the Indians and that the measure required "a purchase of land at a price the Secretary has heretofore determined excessive." Congress made no attempt to override President Carter's action.

On Dec. 13, 1980, President Carter vetoed H.R. 7584, the FY81 appropriations for the Departments of Justice, State, and Commerce, citing his objection to an amendment that would prohibit the Justice Department from recommending the use of busing as a tool in school desegregation cases.

Galemore, Gary L.
IB79004

HEALTH

MLC-061

AGENT ORANGE: VETERANS' COMPLAINTS CONCERNING EXPOSURE TO HERBICIDES IN SOUTH VIETNAM

...one of most acutely toxic substances known to man...

During the Vietnam War, the United States Air Force conducted herbicide spraying operations to defoliate the enemy's groundcover and destroy cropland to decrease the enemy's food supply. One of the several herbicides used in the operations, 2,4,5-T (2,4,5-trichlorophenoxyacetic acid -- a component of the herbicide mixture called "Agent Orange") was contaminated with a chemical known as TCDD (tetrachlorodibenzoparadioxin, or "dioxin"). As much as 360 pounds of TCDD contaminant was released in the "Agent Orange" mixture sprayed in Vietnam from 1962-1970.

TCDD is recognized as one of the most potent and acutely toxic substances known to man, and several animal studies have demonstrated positive results for carcinogenicity, mutagenicity, and teratogenicity.

Congressional interest in herbicide spraying and its effects was triggered by receipt of reports from Vietnam veterans who believe they have been harmed by exposure to herbicides, particularly the mixture of 2,4-D and 2,4,5-T known as "Agent Orange". Veterans who have been denied claims made to the Veterans' Administration (VA) for damages reportedly related to in-service exposure to herbicides, have sought congressional aid to gain access to information and to conduct studies to discover whether a cause-and-effect relationship exists between the veterans' in-service exposure to herbicides and subsequent development of certain diseases.

The 96th Congress has held several hearings on the use of herbicides in South Vietnam, the state of scientific knowledge concerning dioxin, and the efforts of the Veterans' Administration to aid the affected veterans. Congress has introduced and enacted several legislative measures to perform medical studies to determine whether an increased risk exists.

As a step to gain access to records to locate veterans who may have been exposed to herbicides in-service, Title V of P.L. 96-128 (S. 689 and H.R. 2282) the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979, requires the Director of the National Institute for Occupational Safety and Health, upon request by the VA, to request the current mailing addresses from the Internal Revenue Service of persons whom the VA certifies may have been exposed to occupational hazards. This authority will be used by the Veterans' Administration to conduct an epidemiological study of the long-term health effects on individuals exposed to dioxins in Veitnam, as mandated in P.L. 96-151 (H.R. 3892 and S. 1039). Congress has also attempted to enact legislation (S. 2096) designed to investigate the long-term human health effects of exposure to dioxins in general, not just to Agent Orange. As similarly incorporated in P.L. 96-151 (H.R. 3892), S. 2096 would have required that the study's protocol be approved by the Congressional Office of Technology Assessment. This bill was vetoed by the President on Jan. 2, 1980, because of the language that the study be approved by a congressional agency, a procedure which the White House counsel believed violated the separation of power between the congressional branch and the Executive branch.

Other legislation introduced in the 96th Congress calls for the establishment of a resumption of service-connected disability for health effects in Vietnam veterans (and birth defects in their offspring) exposed to Agent Orange. If enacted, the VA would be mandated to award compensation for claims made by veterans exposed to the herbicides.

LEGISLATION

P.L. 96-151, H.R. 3892

Amends Title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract for the furnishing of private health care to veterans when such health care is authorized by a Veterans' Administration physician as necessary for the treatment of medical emergency, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service-connected, to extend the authorization for certain expiring health care programs of the Veterans' Administration, and for other purposes. Title III: Veterans' Administration Medical Personnel Amendments and Miscellaneous Provisions -- Requires the Director of the Office of Management and Budget (OMB) to provide to the Veterans' Administration, for the fiscal year concerned, funded personnel ceilings and the funds necessary to achieve such ceiling for VA health-care staffing. Authorizes the Administrator to enter into sharing agreements with organ and blood banks, and other similar institutions. Amends the statutory authority of the Special Medical Advisory Group (SMAG) to require the inclusion of a disabled veteran on such group. Requires SMAG to report to the Administrator and to Congress on its activities during the preceding fiscal year. Directs the Administrator, pursuant to protocol approved by the Director of the Office of Technology Assessment, to conduct an epidemiological study of the long-term health effects on individuals from exposure to dioxins (including "Agent Orange") used during the Vietnam conflict. Requires the Director to monitor the VA's compliance with such protocol and report to Congress on its execution. Directs the President to assure that the dioxin study be fully coordinated with other Federal studies relating to dioxin research.

Measure reported to House from Committee on Veterans' Affairs, with amendment (H.Rept. 96-138), May 10, 1979. Measure passed House, amended, May 21 and passed Senate, amended, in lieu of S. 1039 June 18. House agreed to Senate amendments, with amendments, Dec. 6, and Senate agreed to House amendment the same day. H.R. 3892 was signed into public law (P.L. 96-151) Dec. 20, 1979.

H.R. 5288 (Hefner et al.)
Revises the veterans' rehabilitation program and the veterans' educational assistance program. Title X: Nursing Home Responsibility and Agent Orange Study -- Directs the Secretary of Health and Human Services (formerly, the Secretary of Health, Education, and Welfare) to conduct a study of veterans and other groups of people exposed to the herbicides known as "Agent Orange" to determine if there may be adverse health effects from such exposure. States that such study shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment. Directs the Secretary to conduct a review and analysis of other studies concerning exposure to such herbicides. Requires the Secretary to report to the appropriate congressional committees concerning such studies. States that in order to assure that any Federal study of "Agent Orange" exposure is objective and valid, the President shall make certain that: (1) such exposure study is coordinated with any other similar Federal studies; and (2) appropriate coordination for such study is arranged between and among the Secretary and heads of other Federal agencies or instrumentalities.

Committee on Veterans' Affairs reported bill, amended (H.Rept. 96-498), Oct. 4, 1979. Measure passed House, amended, Oct. 16. Senate passed H.R. 5288 in lieu of S. 870 with amendments and an amendment to the Title Jan. 24, 1980.

S. 2096 (Cranston et al.)
Directs the Secretary of Health, Education, and Welfare to provide for the design of a protocol for and the conduct of an epidemiological study to determine the long-term adverse health effects in persons of various populations (such as chemical, agricultural, and Forest Service workers) who were exposed to dioxins produced during the manufacture of phenoxy herbicides. Requires the Director of the Office of Technology Assessment to: (a) approve or disapprove such a protocol and submit to the appropriate congressional committees a report explaining the basis of such action; and (2) monitor the conduct of such a study and submit to the committees a report on such monitoring. Directs the Secretary to submit within two years of the approval of the protocol (and annually thereafter) to the appropriate congressional committees a report on the results of such study and recommendations. Requires the President to assure that such study is fully coordinated with other studies pertaining to the health effects of dioxins.

Measure introduced Oct. 10, 1979; referred to Committee on Veterans' Affairs. Passed Senate Dec. 6. Bill was referred to House Committee on Interstate and Foreign Commerce Dec. 10 and to the Committee's Subcommittee on Health and the Environment Dec. 11. Measure passed House Dec. 19. Measure was vetoed by the President Jan. 2, 1980.

Carr, Geraldine M.
IB80040

MLC-062

CHILD HEALTH

...strengthening health services to needy children...

The proposed Child Health Assurance Program (CHAP) legislation was designed to revise and strengthen the Nation's health services to needy children operated under Medicaid's Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT). Under the EPSDT program, States are required to provide screening, diagnosis, and treatment services to individuals under 21 who are eligible under a State's Medicaid program.

The general performance of the EPSDT program has received much criticism. For example, some claim EPSDT has failed to provide health care services to many needy children eligible for program benefits. Others note that many low-income children do not receive needed health care services because they fail to meet EPSDT's current eligibility criteria. CHAP legislation has sought to improve health care to needy children by, among other things, expanding EPSDT's eligibility criteria; broadening health care benefits provided to Medicaid children; and increasing Federal matching rates for certain health services under the program.

Although many have expressed the need for an improved health care program for low-income mothers and children, one reason the legislation faced difficulties in the 96th Congress was that it called for significantly increased Federal spending under Medicaid. Estimates indicated that the CHAP legislation, if fully implemented by FY82, would have increased annual Medicaid program costs by $426.2 million (under the Senate bill) to $1.1 billion (under the House measure).

The CHAP legislation was originally introduced at the Carter Administration's request in the first session of the 95th Congress, but received little action until late in the second session. The House Interstate and Foreign Commerce and Senate Finance Committees both reported out amended versions in 1978, but the session ended before either bill could come to the floor.

CHAP legislation was reintroduced in the 96th Congress. In the House there were three bills: H.R. 2159 (Carter), H.R. 2461 (Maguire and Waxman), and H.R. 4053 (Waxman for the Carter Administration). After consideration by the Interstate and Foreign Commerce Subcommittee on Public Health and the Environment, the three bills were combined into a single legislative proposal. This proposal was introduced as a clean bill, H.R. 4962, on July 25, 1979. It was subsequently considered by the full committee and ordered reported Oct. 16, 1979 (H.Rept. 96-568). On Dec. 11, 1979, the House passed by voice vote an amended version of H.R. 4962.

In the Senate one bill was introduced: S. 1204 (Ribicoff for the Carter Administration). It was reported out of the Senate Finance Committee on July 30, 1979 with an amendment that substituted the provisions of the Senate bill reported by the same committee in the 95th Congress.

Other action taken on CHAP by the Carter Administration and the 96th Congress included action on the FY81 budget. In his original FY81 budget, President Carter requested $39 million for start-up of the CHAP program in FY80, and $403 million for the program in FY81. However, in his revised FY81 budget, President Carter eliminated funding for CHAP in FY80 and reduced the FY81 request to permit one month's funding at $15 million. House and Senate versions of the First Concurrent Budget Resolution for FY81 also permitted only one month's funding of the program on the assumption it would be enacted. The House allotted $40 million for CHAP in FY81 whereas the Senate allowed $20 million. On June 12, 1980, both Houses approved the First Concurrent Budget Resolution with the Senate agreeing to the House allowance.

LEGISLATION

H.R. 4962 (Waxman et al.)

Child Health Assurance Act of 1979. Replaces the current program for early and periodic screening, diagnosis, and treatment under Medicaid with an expanded child health assessment program. Among other things, makes additional children (children up to age 18 in two-parent families; children up to age 21 covered at State option) and pregnant women eligible for Medicaid coverage; establishes a nationwide minimum income standard for coverage of pregnant women and children, although any State has the option of covering persons with higher incomes; broadens health care benefits provided to Medicaid children; increases the proportionate share of the costs of health assessments and outpatient treatment for Medicaid children paid for by the Federal Government; provides incentives for more successful operation of health assessment and outreach and follow- up programs by the States; assures that all types of eligible health care providers and agencies may serve as CHAP providers for Medicaid children; provides incentives to facilitate enrollment of Medicaid children with health care providers which will give primary and preventive care on a continuing basis; and provides for penalties (in the form of reduced matching for administrative costs) for States that do not meet minimum performance standards in their CHAP programs, and bonuses for those that perform exceptionally well. Several provisions were also added by floor amendments passed during House consideration of H.R. 4962. Among those were two abortion-related amendments that (1) prohibit, under the CHAP program, the use of Federal funds to end pregnancies, except those that endanger the life of the mother, and (2) provide that States may refuse to spend their own funds on Medicaid abortions even if courts have ordered them to do so. H.R. 4962 was introduced July 25, 1979; referred to Committee on Interstate and Foreign Commerce. Reported Oct. 26, 1979 (H.Rept. 96-568). Passed House, amended, Dec. 11, 1979.

S. 1204 (Ribicoff et al.)

Child Health Assurance Act of 1979. Replaces the current program for early and periodic screening, diagnosis, and treatment under Medicaid with an expanded child health assessment program. Among other things, makes additional children (children up to age 6 in two-parent families; children up to 21 covered at State option) eligible for Medicaid coverage; clarifies Medicaid services which must be provided to children by requiring States to provide comprehensive health assessments for all children and requiring that States cover all services (with limited exceptions) for which payment may be made under Medicaid; increases the Federal matching rate for assessments and for all non-inpatient services provided children who have been assessed and reassessed at appropriate intervals; assures that all types of eligible health care providers and agencies may serve as CHAP providers for Medicaid children; and provides for penalties (in the form of reduced matching for administrative costs) for States that fail to meet certain performance criteria, and bonuses for States that perform well. The original version of S. 1204 was introduced by Senator Ribicoff for the Administration (May 22, 1979). However, after consideration by the Senate Finance Committee, S. 1204 was reported (S.Rept. 96-274) July 30, 1979, with an amendment in the nature of a substitute incorporating the provisions of the CHAP bill reported by this same committee in the 95th Congress.

Bailey, Susan

MLC-063

DRUG ABUSE: DEMAND REDUCTION (SEE ALSO "LAW, CRIME AND JUSTICE")

...treatment and prevention...

Federal efforts to contain the drug abuse problem aim at reducing both the supply of, and the demand for, abusable drugs. On the demand reduction side, these efforts emphasize treatment and rehabilitation of drug-dependent persons, along with various forms of "primary prevention" and intervention. Since 1972, the principal programs for such purposes have been authorized under the Drug Abuse Office and Treatment Act (P.L. 92-255). These programs are administered by the National Institute on Drug Abuse (NIDA).

A "war on drugs" was proclaimed in the early 1970s to fight what was considered an epidemic of drug abuse, especially of the opium derivative heroin. By early 1974, the "epidemic" had peaked at an estimated 605,000 addicts. The most recent NIDA estimate indicates that the 1978 addict population was approximately 380,000. Declines in heroin deaths, cases of hepatitis, emergency room episodes, and the purity of heroin sold on the street support the contention that heroin abuse has been waning. However, abuse of other dangerous drugs, especially marihuana and cocaine, has been increasing.

The principal treatment and prevention concern during the first session of the 96th Congress was reauthorization of the NIDA grant and contract programs under the Drug Abuse Office and Treatment Act (DAOTA). Additionally, the Administration submitted a bill to consolidate the alcoholism and drug abuse formula grant programs (provided for under section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and section 409 of DAOTA respectively), along with the mental health portion of State planning grants funded under section 314(d) of the Public Health Service Act (S. 1044); however, no action was taken on the proposal. In the second session, attention was focussed on the revised Administration budget request for FY81, with no funds allocated to the formula grant programs.

LEGISLATION

P.L. 96-181, S. 525

Extends for 2 years some provisions of the Drug Abuse Office and Treatment Act of 1972 (renamed the Drug Abuse Prevention, Treatment, and Rehabilitation Act). Authorizes appropriations for project grants and contracts awarded by the National Institute on Drug Abuse (Sec. 410 of the Act) at the level of $169 million for FY80 ($149 million treatment, $20 million prevention) and $185 million for FY81 ($155 million treatment, $30 million prevention. Requires that at least 7% of these funds go to primary prevention and intervention projects in FY80 and 10% in FY81. Authorizes appropriations for NIDA formula grants to the States at the current level of $45 million, for both FY80 and FY81. Transfers to the President the responsibilities of the former Office of Drug Abuse Policy. Expands membership of the Strategy Council on Drug Abuse and of the National Advisory Council on Drug Abuse to include appropriate State and local government officials. Calls upon NIDA to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies that focus on the needs of "underserved populations', and to give special consideration to applications for the funding of projects serving women, the elderly, and persons under 18. Requires State advisory councils established under the Act to include as members women and the elderly, and State drug abuse plans to include an assessment of the needs of these groups and of the need for changes in emphasis resulting from shifts in demographic and drug abuse patterns. Introduced Mar. 1, 1979; referred to Committee on Labor and Human Resources. Reported with amendments Apr. 30 (S.Rept. 96-104). Passed Senate amended May 7. Referred to the House Committee on Interstate and Foreign Commerce May 9. Passed House, amended, Oct. 16. Compromise agreement accepted by both House and Senate Dec. 19, 1979. Approved Jan. 2, 1980. H.R. 3037 introduced Mar. 15, 1979; referred to Committee on Interstate and Foreign Commerce. H.R. 3916, a clean bill -- introduced in lieu of H.R. 3037, May 3. Reported May 15 (H.Rept. 96-193). S. 525, amended, passed in lieu, Oct. 16.

Hogan, Harry

MLC-064

DRUG REGULATION REFORM

...to streamline the drug approval process...

Over the past decade Congress has focused on the need for drug regulatory reform. Some of the issues involved are the spiraling cost of medicine, consumers' demands for more accurate information about drug products (precautions for use and adverse reactions), and an acknowledged need for the postmarketing surveillance of drugs after approval for release to the public.

Congress has introduced numerous bills to amend the Food, Drug, and Cosmetic Act to correct these perceived shortcomings in present law. For the most part, the bills deal with singular issues related to various aspects of drug regulatory reform. Some bills were introduced with the intention of providing incentives for additional research to develop drugs to treat diseases of low incidence--the so-called "orphan diseases." Repeated attempts have been made to establish a National Drug Testing and Evaluation Center as part of FDA. This legislation would take the responsibility for drug testing out of the hands of private industry and into the hands of the Federal Government, with the pharmaceutical manufacturers bearing the expense of the testing.

Other bills have been introduced affecting drug labeling, the formation of drug compendia to enhance prescribing information, the regulation of free sample drugs, and the imposition of conditions and limitations on the distribution or prescribing of certain medications. However, none of the aforementioned proposals has been enacted into law.

In 1978, a comprehensive drug regulation reform bill was presented to the 95th Congress on behalf of the Carter Administration. The pharmaceutical industry charged that the legislation would only perpetuate rather than solve the industry's burden of regulatory compliance. Although extensive hearings were held to resolve differences, the 95th Congress adjourned with no final action taken on the proposal. Early in the 96th Congress the bill was reintroduced, again on behalf of President Carter. This move was soon followed by the introduction of a new draft of the Drug Regulation Reform Act of 1979 (S. 1075) by Senator Kennedy and several cosponsors. This version included major changes less objectionable to pharmaceutical manufacturers.

Drug regulation reform legislation represents a select section-by-section overhaul of existing drug law, specifically the Food, Drug, and Cosmetic Act. Some of the desired accomplishments in this legislation have engendered years of debate. Originally, consumers wanted all data offered by industry seeking FDA drug approval made available to the public. Both FDA and drug manufacturers currently consider this information proprietary. Some have argued that secrecy surrounding drug development and approval has fostered inadequate testing and has led to the submission of fraudulent data offered in support of a drug's New Drug Application (NDA). On the other hand, industry maintains that nondisclosure of proprietary information is necessary to protect a new product from competition. While early drafts of the Drug Regulation Reform Act called for full disclosure, the language of S. 1075 only requires that a releasable summary of data (excluding trade secrets) be submitted by a manufacturer applying for FDA approval of a new drug.

Under current law, if serious adverse side effects become associated with a medication after receiving FDA approval, the only mechanism to remove that drug immediately from the marketplace requires the Secretary of Health and Human Services (formerly DHEW) to invoke the "imminent hazard" clause of the FD&C Act [Sec. 505(e)(4)]. Because this unilateral decision is so extreme, it has been invoked only in the most serious of circumstances. Short of this procedure, there must be "imminent danger to health" or "gross deception of the consumer" [Sec. 705(b) FD&C Act] before the FDA is empowered with the authority to inform the public. Although FDA can ask manufacturers to voluntarily restrict the distribution of a product, consumers and health officials alike argue that this process lacks enforcement, is time consuming, and leaves the patient at undue risk. For such reasons, S. 1075 would require postmarketing surveillance of drugs to monitor possible adverse reactions. Sections of the bill would allow FDA to remove from the marketplace a drug that caused an unreasonable risk to any part of the population.

Another topic of both consumer and industrial concern is that of patient package inserts (PPIs). Under this concept, a leaflet, containing such information as how or when a drug should be taken, known adverse effects, and precautionary warnings would accompany the retail purchase of most prescription drugs. This form of labeling insert could be withheld should the FDA determine that such information might be potentially detrimental to the health of some patients. In other words, physicians may be granted the discretion of denying PPIs to patients under certain circumstances. The FDA has already published its intent to promulgate PPI requirements. While pharmaceutical manufacturers, wholesalers, and retailers have agreed that more drug information should be made available for patients, all have expressed strong reservations concerning "across the board" PPI requirements, citing inherent extra expenses or inflationary costs. FDA counters this argument, contending that the expense of such a program can be kept to a minimum for two reasons. One, that pharmacy is heading in the direction of a "unit of use" movement whereby a fixed amount of medication would be packaged along with its PPI at the origin of manufacture, and secondly, that the FDA will only require that a PPI be written for a "class" of related drug compounds rather than for each and every chemical entity.

Certain sections of S. 1075 would permit the export of drugs that do not meet U.S. safety and efficacy standards, as long as the importing government gives prior approval. Such exportation is contingent upon the drug not being harmful to the public health and safety of the foreign country. While this portion of the bill is intended to take into account differences between the health needs of one country versus another (based on risk/benefit assessments), some fear that relaxation of current export provisions of the FD&C Act will allow drug manufacturers to use foreign populations as human test subjects for unapproved products.

For years the pharmaceutical and medical communities have complained that the U.S. system of regulating drug research and development has become more and more burdensome, and as a result has adversely affected the introduction of chemicals to treat new or existing pathologies. For these reasons and others, the United States is said to be suffering from a "drug lag," or shortage of new chemical entities that often appear on foreign markets before approved for use in the United States. Whether or not such a lag exists is subject to debate based on statistical figures and inferences. Some argue that the lag can be blamed on the drying up of drug formulation technology, while others point to stringent regulations such as the 1962 FD&C Act amendments, requiring proof of efficacy, and resulting in lengthy clinical studies and documentation. Increases in the time and money that must be invested to bring a new drug from conception to marketplace, coupled with a resultant shorter patent protection period, have all been blamed for a growing lack of incentive for pharmaceutical innovation.

Drug regulation reform legislation is an effort to reverse these trends, streamline the process of drug approval, and improve medicinal care in the United States.

LEGISLATION

S. 1045 (Kennedy by request)

Drug Regulation Reform Act of 1979. Requires the issuance by the Department of Health, Education, and Welfare of a descriptive monograph for every new drug entity or drug product manufactured, imported into, exported from, or distributed in the United States. Provides procedures for the issuance, amendment, suspension, and revocation of such monographs. Prescribes the content of informational and promotional drug product labeling. Prohibits drug product licensees from distributing free samples of prescription drugs. Forbids the disclosure by pharmacists to licensees of information contained in prescriptions. Amends the Public Health Service Act to establish the National Center for Clinical Pharmacology to conduct and support research in clinical pharmacology and drug use in the United States. Introduced Apr. 30, 1979; referred to Committee on Labor and Human Resources. Subcommittee on Health and Scientific Research held hearings May 18, 1979.

S. 1075 (Kennedy et al.)

Drug Regulation Reform Act of 1979. Amends the Federal Food, Drug, and Cosmetic Act with regard to drug information and promotion labeling, a Federal drug index, free samples, drug investigations, health benefits versus risks analysis, and other specified drug regulatory matters. Amends the Public Health Service Act to establish in the Department of Health, Education, and Welfare the National Center for Drug Science. Establishes within the Department a Food and Drug Administration. Introduced May 3, 1979; referred to Committee on Labor and Human Resources. Reported to Senate from Committee on Labor and Human Resources, with amendments (S.Rept. 96-321), Sept. 18, 1979. Measure considered in Senate Sept. 26, 1979. Measure passed Senate, amended, Sept. 26, 1979, and was referred to House Committee on Insterstate and Foreign Commerce.

S. 1138 (Schweiker)

Drug Regulation Improvement Act of 1979. Amends the Federal Food, Drug, and Cosmetic Act to allow submission of a comprehensive summary of investigations in lieu of full reports in the application for approval of a new drug. Authorizes an unsuccessful applicant to request a review of a disapproved application by an advisory committee. Directs the Secretary of Health, Education, and Welfare to promulgate regulations requiring persons who intend to conduct a drug research investigation to obtain a drug research registration. Introduced May 15, 1979; referred to Committee on Labor and Human Resources.

Randall, Blanchard IV

MLC-065

FOOD LABELING

...to promote public health...

Congressional interest in providing the consumer with more complete food labeling information has now been supported by an Administration policy statement and legislative proposal to change the current system of food labeling. The regulation of food labeling is currently shared by three Federal agencies: the Department of Agriculture (USDA), for meat, poultry, and egg products; the Food and Drug Administration (FDA), for all other food products; and the Federal Trade Commission (FTC), which governs food advertising. Through the years, the original intent of food labeling has broadened from ensuring that the consumer was not defrauded to promoting public health by giving consumers enough information to be able to avoid certain substances and to choose foods changes have occurred providing a more balanced diet. In addition, immense changes have occurred in the manufacture, processing, and distribution of food products since the passage of the 1938 Federal Food, Drug, and Cosmetic Act, which established the foundations of food labeling regulation. Even so, regulatory mechanisms have changed only slightly and in piecemeal fashion, leading to inconsistencies and inadequacies in the current system. In 1979, the three agencies published a statement itemizing proposed changes to the present system; several bills, including those amending Administration-drafted legislation also introduced in the 96th Congress. Hearings were held by the Senate Committees on Agriculture, Nutrition, and Forestry; and Labor and Human Resources in the 96th Congress. However, Congress did not take action on any of these bills.

Knisbacher, Sandra; Withnell, Elizabeth
IB80055

MLC-066

HEALTH: CATASTROPHIC HEALTH INSURANCE

...no measure reported in either House of Congress...

Catastrophic medical costs are broadly defined as large unpredictable health expenses usually associated with a major illness or serious injury. Proposals to provide health insurance protection for these expenses received increasing attention in the 96th Congress, particularly by the Senate Finance Committee; however, no measure was reported in either house. Discussion of catastrophic coverage was characterized by a divergence of views regarding the degree of reform required in the current health system. Even among those supporting a catastrophic approach, there were a number of different approaches to the major issues requiring resolution, including the population groups to be covered, financing mechanisms to be used, and the amount of increase in Federal outlays that could be supported. The Senate Finance Committee began consideration of proposed elements to be included in a catastrophic proposal. It tentatively approved requiring employers to provide and contribute financially toward the cost of a catastrophic plan for full-time employees and their dependents. Employer-based plans would have been required to limit the amount of covered health expenses for which an individual or family would be liable to a maximum of $3,500 per year; the deductible for lower income employees could not have exceeded 25% of income. The committee also tentatively approved a maximum limit of $1,000 per year on cost-sharing under Medicare.

LEGISLATION

S. 350 (Long et al.)

Catastrophic Health Insurance and Medical Assistance Reform Act. Authorizes catastrophic health insurance protection to be made available to all U.S. citizens and other permanent residents through either a Federal plan or an employer plan. Provides that the program would be financed through a 1% tax on the payroll of employers and the self-employed subject to the Social Security tax. Employers and self-employed who opted for a private plan would have the amount of premiums deducted from their 1% payroll tax liability. Specifies coverage would be for medical care in excess of $2,000 per family and for hospital and related care after an individual had been an inpatient in a hospital for 60 days. Replaces Medicaid with a uniform national program of basic health care benefits for low-income persons and families. Establishes a program whereby private health insurers, at their option, could submit one or more basic health insurance policies to the Department of Health, Education, and Welfare (HEW) for certification. Introduced Feb. 6, 1979; referred to Committee on Finance. Hearings held Mar. 28-29; June 19 and 21, 1979. Markup held June 28; Nov. 1, 6-7, 1979.

S. 748 (Dole, Danforth, and Domenici)

Catastrophic Health Insurance and Medicare Improvements Act of 1979. Modifies Medicare by deleting coinsurance requirements for hospital and skilled nursing facility care, and increasing coverage for mental health services. Provides that catastrophic protection would trigger under Medicare once a beneficiary incurred expenses of $5,000 in a year (annually adjusted) or out-of-pocket expenses (excluding the $60 deductible) equal to 20% of that amount for covered Part B-type services. Specifies that expenses for certain outpatient drugs, listed in a formulary, necessary for the treatment of crippling or life-threatening chronic diseases, could be counted toward meeting the trigger; program payment for such drugs could be made once the trigger had been met. Requires all employers to offer group health insurance coverage to their full-time employees which provides, at a minimum, coverage for inpatient hospital services after an individual or family has been hospitalized for 60 days and coverage for medical services (identical to those offered under Medicare Part B) after an individual or family unit has incurred $5,000 (annually adjusted) in expenses for such services. Establishes a residual market catastrophic health insurance program offered through private carriers for individuals with no other catastrophic health insurance or Medicare or Medicaid. Provides that the Secretary would pay the carriers graduated premium subsidies on behalf of the low-income. Provides that benefits would be identical to those offered under employment-related plans; in addition, coverage would be provided for any individual who had out-of-pocket costs (not less than $200) equal to 15% of income. Introduced Mar. 26, 1979; referred to Committee on Finance. Hearings held Mar. 28-29, June 21, 1979. Markup held June 28, Nov. 1, 6-7, 1979.

S. 1590 (Schweiker et al.)

Comprehensive Health Care Reform Act. Requires large employers to offer employees at least three competitive health insurance plans, at least one of which would have to contain provision for patient cost-sharing for hospital services, in order for the business expense tax deduction for employer contributions to be allowed. Requires large employers to offer catastrophic benefits (defined as payment of 100% of incurred expenses after a family paid out-of-pocket expenses equal to 20% of income) as a condition for receiving such tax deductions. Provides for pooling arrangements for such coverage for otherwise uncovered individuals. Deletes durational limits on and existing coinsurance requirements for hospital services under Medicare. Requires copayment of 10% of the cost of hospital care regardless of duration, except that once coinsurance payments under Parts A and B in one year reach 20% of income, all coinsurance requirements would cease. Introduced July 26, 1979; referred jointly to Committees on Finance, and Labor and Human Resources.

S. 1812 (Ribicoff)/H.R. 5400 (Rangel) (by request)

National Health Plan Act. Establishes a national program of protection against medical expenses for all Americans. Includes three principal components: (1) a new Federal insurance program called HealthCare (replacing Medicare and the acute care portion of Medicaid) providing health care coverage for the aged, blind, disabled, low-income, and others unable to obtain private health insurance coverage at reasonable premium rates; (2) an "Employer-Guarantee through which employers would be mandated to provide employees with specified health benefits coverage and pay at least 75% of the premium cost; and (3) various health system reforms designed to enhance competition in the health care sector and reduce excess capacity in hospitals. Provides for a comprehensive benefit package and specifies that benefits covered under both HealthCare and the employer-mandated plans would be uniform. Provides that benefits for the poor would be fully subsidized. Limits cost- sharing for aged and disabled under HealthCare to $1,250 per year. Specifies that cost-sharing for other individuals and groups who buy into HealthCare would be $2,500. Specifies that benefits under employer-mandated plans would be subject to an annual $2,500 maximum limit on cost-sharing. Provides the following financing for HealthCare coverage: (1) present Medicare payroll tax, premiums, and general revenues for the aged and disabled; (2) Federal and State sharing for low-income; (3) community-rated premiums for individuals who buy-in; (4) lesser of community-rated premiums or 5% of payroll for small employer groups (below 10 persons); and (5) 5% of payroll for employer groups of 10 or more. Provides that employer-guaranteed plans would be financed through premium payments with Federal subsidies for employers whose premium payments attributable to minimum mandated benefits exceed 5% of payroll. Introduced Sept. 25, 1979. S. 1812 referred jointly to Committees on Finance, and Labor and Human Resources. H.R. 5400 referred jointly to Committees on Interstate and Foreign Commerce, and Ways and Means.

O'Sullivan, Jennifer
IB79060

MLC-067

HEALTH PLANNING AMENDMENTS

...a revision of earlier efforts...

The health planning program authorized under P.L. 93-641 (the National Health Planning and Resources Development Act of 1974) is responsible for rationally allocating health resources to improve access to health care while containing costs. The program represents a significant revision of earlier health planning efforts authorized under the Regional Medical Program (P.L. 89-239), the Comprehensive Health Planning Program (P.L. 89-749), and the Hill-Burton Hospital Construction Program begun in 1946. The nationwide network of State and areawide health planning and resources development agencies established under the program has been given broader powers than the agencies' predecessors, particularly in the areas of regulation, control of Federal funds, review and encouragement of resources development, and actual implementation of plans.

The program has aroused controversy on a number of points. Many governors view the program as a test between States' rights and Federal control. Some question the legality of private entities controlling public funds without clear lines of public accountability. Others feel that certain actions by planning agencies can thwart competition in the health industry. Attempts by planning agencies to address such controversial issues as abortion, anti-smoking, and mandatory use of motorcycle helmets have met with criticism in some areas. Recent hospital cost containment bills which would involve health planning agencies in efforts to check hospital capital spending and eliminate unneeded facilities have been yet another area for debate.

Other concerns have arisen over provisions in the law for mandatory State certificate-of-need (CON) programs that apply to new institutional health services proposed within the State. Each State agency must administer a CON program that uses sanctions (e.g., denial or revocation of licensure, and civil or criminal penalties) to prevent development of unneeded services or facilities. Some feel that capital controls in the absence of similar constraints over institutional operating revenues will fail to halt the alarming rate of increase in the Nation's health care costs. Others urge that controls be extended to physicians' offices, presently exempted from such review. There is also interest in some form of decertification authority that would enable planning agencies to close down unneeded or underutilized services and facilities.

LEGISLATION

P.L. 96-79, S. 544

Health Planning and Resources Development Amendments of 1979. As amended, amends Titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development. Requires the Secretary of HEW to review annually the standards and goals in the national health planning guidelines. Adds five areas for priority consideration in the development of health planning goals and programs. Expands membership of the National Council on Health Planning. Emphasizes consideration for the strengthening of competitive forces in the health services industry, particularly in the actions and decisions of HSAs and SHPDAs. Revises procedures pertaining to review of health service area boundaries. Requires the Secretary to give priority to applications for designation of health systems agencies recommended by a governor or a SHCC. Permits HSA and SHPDA designation for periods of up to 3 years. Revises formula for establishing the amount of planning grants to HSAs. Permits the Secretary to increase grants to assist HSAs in meeting extraordinary expenses. Modifies provisions relating to HSA consumer members to require that they be broadly representative of the health service area and include individuals representing the principal social, economic, linguistic, handicapped, and racial populations and geographic areas and major purchasers of health care. Adds podiatrists, physician assistants, and rehabilitation facilities to provider categories which must be represented on HSAs. Increases percentage of providers who must be direct providers. Revises definition of direct provider of health care, pertaining to HSA membership. Amends various provisions pertaining to HSA governing body membership including selection process for new members, conflict of interest provisions, residency requirement for providers, personal liability suits, prohibition against use of HSA funds to influence government legislative or regulatory activities, etc. Requires SHCCs to adopt a uniform format for HSPs and AIPs. Describes type of material to be included in HSPs and State health plans. Redefines responsibilities of parent governing body in public HSAs. Amends disclosure and open meetings requirements of HSAs. Requires State health plan to have approval of the governor. Requires State agency to establish a period within which approval or disapproval of a certificate-of-need application must be made. Requires certificate-of-need decisions to be consistent with the State health plan except in emergency circumstances that pose a threat. Provides for periodic review of certificates of need and withdrawal of approval for lack of progress. Requires certificates to specify the maximum amount of capital expenditures which may be obligated. Requires approval of certificates for expenditures related to elimination or prevention of safety hazards or for compliance with licensure or accreditation standards, unless approval would be inconsistent with the State health plan or the facility or service for which the certificate proposed is no longer needed. Extends certificate-of-need provisions to major medical equipment outside the hospital if such equipment is to be used on hospital inpatients. Permits States to extend further such scope of review pertaining to major medical equipment outside the hospital if they currently provide such additional requirements or do so prior to Sept. 30, 1982. Exempts from certificate-of-need requirements health maintenance organizations (HMOs) and most facilities providing services primarily to HMO enrollees. Provides for batching of certificate-of-need applications pertaining to similar types of services, facilities, or equipment. Clarifies scope of HSA appropriateness review. Repeals current allotment authority for health resources development activities in the States. Revises purposes for which loans and loan guarantees may be made to the States for health resources development. Establishes new authority for grants and technical assistance to hospitals for the discontinuance or conversion of unneeded hospital services. Establishes a project grant program for construction of outpatient medical facilities in medically underserved areas and conversion of existing facilities into outpatient medical facilities or facilities for long term care.

The Senate bill, S. 544, was introduced Mar. 5, 1979 and referred to Committee on Labor and Human Resources. A House bill, H.R. 3041, was introduced Mar. 15, 1979, and referred to Interstate and Foreign Commerce Committee. Hearings on S. 544 held Mar. 16, 1979. Hearings held on H.R. 3041 Mar. 28 and 29, 1979. S. 544 reported, amended, by Committee on Labor and Human Resources Apr. 26 (S.Rept. 96-96). On May 1, 1979, the Subcommittee on Health and Environment, House Interstate and Foreign Commerce, approved for full committee action a clean bill -- H.R. 3917 -- to be introduced in lieu of H.R. 3041. H.R. 3917 reported by Interstate and Foreign Commerce Committee May 15, 1979 (H.Rept. 96-190). S. 544 passed by Senate by voice vote May 1, 1979. H.R. 3917 passed by House with amendments July 19, 1979. House agreed to pass S. 544 in lieu, amended to contain language of H.R. 3917. House and Senate conferees met to mark up a conference report on the bill during August. The conference report on S. 544 (Rept. 96-309 in the Senate, Rept. 96-420 in the House) passed by the House Sept. 20, 1979 and by the Senate Sept. 21, 1979. Signed into law as P.L. 96-79 Oct. 4, 1979.

Reiss, Kay
IB78010

MLC-068

HEALTH PROFESSIONS AND NURSE TRAINING PROGRAM ISSUES

...focus on geographic and specialty maldistribution...

Congress last considered legislation between 1974 and 1976 to revise and extend the Federal programs for health professions education (medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health) authorized by Title VII of the Public Health Service Act. P.L. 94-484, the Health Professions Educational Assistance Act of 1976, resulted in a revision and 3-year extension of authorities for these programs through FY80. The most recent nurse training legislation, P.L. 96-76, the Nurse Training Amendments, enacted in 1979, extended Title VIII programs for 1 year through FY80. During FY80 the 96th Congress considered legislation to extend Title VII and Title VIII programs. Congressional debate focused on the issues of health manpower geographic and specialty maldistribution, and the level and types of Federal support necessary for health professions and nursing education. [For more information, please see IB80069, Health Professions and Nurse Training Program Issues]

LEGISLATION

H.R. 7203 (Waxman et al.)

Health Professions and Educational Assistance and Nurse Training Amendments of 1980. Revises and extends the Public Health Service Act programs for health professions (Title VII) and nurse training (Title VIII) education for 3 years through FY83. Among other things, phases out capitation assistance, renamed "institutional support grants" under the bill, for medical, osteopathic, dental, veterinary medicine, optometry, pharmacy, and podiarty schools over a 3-year period. Extends the construction loan guarantee program for health professions schools. Also authorizes conversion grants to 2-year medical schools to assist them in becoming 4-year institutions. Extends financial distress grants for health professions schools. Also extends startup grants but only for new schools of veterinary medicine, optometry, podiatry, pharmacy, and public health. Extends and amends certain special project grant programs. Extends and amends the NHSC, and its scholarship program, as well as the Health Education Assistance Loan Program, and the Scholarship Program for First-Year Students of Exceptional Financial Need. Also extends the Health Professions Student Loan Program. Extends the program of traineeships for public health students, as well as project grants for public health schools and graduate programs in health administration. Also extends project grants for allied health schools, as well as traineeships and disadvantaged assistance for allied health students. Establishes a Graduate Medical National Advisory Committee (GMENAC).

Amends Title VIII to authorize institutional support grants for nursing schools similar to capitation grants but at different levels of financial support. Extends construction grants for (1) nursing schools but only for those schools in health manpower shortage areas, (2) nursing special projects, (3) the advanced nurse training program, (4) traineeships for nurse anesthetists, and (5) nursing student loans and scholarships. Also extends and amends the nurse practitioner program, and advanced nurse traineeships.

Originally introduced as H.R. 6802 Mar. 12, 1980; referred to Interstate and Foreign Commerce Committee. Hearings held Mar. 20, 21, 24, 26, and 27. H.R. 6802 was then considered by the Interstate and Commerce Subcommittee on Health and the Environment, and ordered reported as a clean bill, H.R. 7203, Apr. 29, 1980. H.R. 7203 was considered by the full committee and reported May 15, 1980 (H.Rept. 96-978). Passed House, amended, Sept. 3, 1980.

S. 2375 (Byrd for Kennedy et al.)

Health Professions Training and Distribution Act of 1980. Revises and extends Public Health Service Act programs for health professions (Title VII) and nurse training (Title VIII) education for 3 years, FY82-84. Among other things, amends Title VII to repeal capitation assistance for health professions schools. Establishes a national priority incentive grant program to provide institutional support grants to health professions schools if they fulfill or are fulfilling certain national objectives. Establishes a program to provide grants, loan guarantees and interest subsidies for: (1) renovation and modernization of existing facilities for teaching and research; and (2) construction, and conversion of existing facilities for ambulatory primary care teaching. Establishes a one-time grant for conversion of any 2-year medical school to a degree granting institution. Continues funding for a number of special projects and authorizes various new initiatives. Continues startup grants but only for new schools of veterinary medicine, optometry, podiatry, and public health. Continues financial distress grants with support limited to 3 years, and creates a grant program to help health professions schools achieve financial solvency within an additional 5-year period. Extends and amends the Health Education Assistance Loan (HEAL) program. Continues the health professions student loan program through FY81, but phases out the program beginning in FY82 when loans would be made only to senior students who were previous loan recipients to allow them to complete their education. Authorizes a new service-contingent loan program to students in the following programs: health professions, graduate programs in health administration, and programs for the training of physician assistants or expanded function dental auxiliaries. Creates a new program of loan forgiveness for persons who practice in underserved areas. Extends and amends the National Health Service Corps but only through FY81. Also extends and amends the NHSC scholarship program, and the Scholarship Program for First-Year Students of Exceptional Financial Need. Establishes a Federal program of grants to States to fund the cost of health manpower shortage area service scholarships offered by the State to health professions students. Extends and amends programs for training in public health administration, and allied health.

Among other things, amends Title VIII to repeal capitation assistance for nursing schools. Establishes a national priority incentive grant program to provide institutional support grants to nursing schools if they fulfill or are fulfilling certain national objectives. Extends construction grant authority for new schools. Revises special project grant authority; and extends existing program authority for nurse practitioner and advanced nurse training, and traineeships for advanced nurse training and nurse anesthetists. Creates a new program of financial distress grants for nursing schools as well as an advanced grant program with up to 5 years of support. Authorizes startup assistance for new schools of nursing, and creates a new program of educational assistance to individuals from disadvantaged backgrounds. Extends the nursing scholarship programs but with an authorization ceiling. Amends the HEAL program to include students in collegiate nursing schools. Also authorizes a new service-contingent loan program for nursing and nurse anesthetist students. Continues the nursing student loan program through FY81, but phases out the program beginning in FY82 when loans would be made only to senior students who were previous loan recipients to allow them to complete their education.

Amends the Immigration and Nationality Act to extend the maximum period a "J" foreign medical graduate (FMG) may remain here for 3 years to the lesser of 7 years or the time required to complete the program. Also extends the expiration date of the substantial disruption waiver for certain "J" FMGs for 5 years to Dec. 31, 1985 if the individuals meet certain conditions.

Three Senate bills (S. 2144 - Schweiker, S. 2375 - Kennedy, and S. 2378 - Javits) amending Titles VII and VIII were originally introduced in the 96th Congress, and referred to the Labor and Human Resources Committee. Hearings held Mar. 10-11, 1980. Certain provisions of the bills were then combined into a single legislative proposal, S. 2375, which was approved by the Labor and Human Resources Subcommittee on Health and Scientific Research May 22, 1980. S. 2375 was considered by the full committee and ordered favorably reported with amendments June 27, 1980. Passed Senate, amended, Sept. 19, 1980.

In the end, a conference was not held on the House and Senate health manpower bills. However, several health manpower amendments were included in S. 988 (P.L. 96-538), the Health Programs Extension Act of 1980. These include an extension, through FY81, of the authority for the HEAL-guaranteed loan program for health professions students and an increase of maximum interest rate allowed for HEAL loans from 12% to the average of the bond equivalent rates of 91-day Treasury bills auctioned for the previous quarter plus 3 1/2%, rounded to the next higher one-eighth of 1%. In addition, the amendment eliminated the requirement prohibiting a student from receiving a HEAL loan and another guaranteed student loan in the same year.

The amendments would also allow National Health Service Corps (NHSC) scholarship recipients to enter private practice in a health manpower shortage area without first demonstrating that there is a sufficient financial base in the area to provide the individual with an income equal to that of NHSC members. Finally, these amendments extend the expiration date of the substantial description waiver for certain "J" FMGs through Dec. 31, 1981, if the individuals meet certain conditions.

Funding for unauthorized health manpower training programs was continued under J.Res. 644. This continuing resolution bill provides funding for health manpower training programs at FY80's funding level.

Bailey, Susan
IB80069

MLC-069

HEALTH RESEARCH

...1980 Health Programs Extension Act signed into law...

Federal expenditures for health research and development have risen from $70 million in 1950 to over $4 billion in 1980. The National Institutes of Health (NIH) supports approximately two-thirds of this research effort, under the authority of the Public Health Service Act (PHSA). The 96th Congress considered legislation that would have substantially revised this authority, and would have increased congressional oversight responsibility for the NIH.

At present, only 2 of the 11 NIH research institutes have specific funding authority under Title IV of the PHSA: the National Cancer Institute (NCI) and the National Heart, Lung, and Blood Institute (NHLBI). Their authorizations were extended through FY80 in legislation passed in 1978. The remaining 9 research institutes are funded under the general authority provided in Sec. 301 (Title III) of the PHSA. Some of these research institutes have been legislatively established under the PHSA, while others have not. In addition, specific funding authority for certain programs administered by the various institutes has been added by amendment to the PHSA (e.g., arthritis, diabetes, and heart, lung, and blood program activities).

Two major pieces of legislation relating to the National Institutes of Health, S. 988 and H.R. 7036, emerged during the 96th Congress. Both bills contained provisions to establish the entire NIH in law, and to standardize the legislative mandates of the individual research institutes. They differed fundamentally, however, in their approach to congressional review of NIH funding authority. Senator Kennedy's Health Sciences Promotion Act of 1980 (S. 988) would have placed funding for all 11 institutes, including NCI and NHLBI, under the general authority of Sec. 301, without any time or dollar limitations. Representative Waxman's Health Research Act of 1980 (H.R. 7036), on the other hand, would have required reauthorizations for all the institutes every three years, with a fourth-year authorization added as insurance against congressional inaction. The House bill also set specific budget ceilings for the various institutes.

A major provision of the Senate bill, not contained in the House bill, was the creation of a 16-member President's Council for the Health Sciences. It would have reviewed health research spending priorities, made recommendations on funding levels, and studied long-range health research needs.

The Senate passed S. 988 on June 19, 1980. The House passed H.R. 7036 on Aug. 28, 1980, then substituted its text for that of the Senate measure and sent S. 988 to conference. The conferees were appointed in September, but they could not reconcile their differences over the major features of the two versions. Instead, the conference committee recommended new language for S. 988, entitled the "Health Programs Extension Act of 1980" (Conference Report 96-1478, Nov. 21, 1980). The House and Senate agreed to the conference report, and the measure was signed by President Carter on Dec. 17, 1980 (P.L. 96-538).

LEGISLATION

P.L. 96-538, S. 988 (conference substitute version)
Health Programs Extension Act of 1980. Extends the expiring authorizations for the National Cancer Institute and the National Heart, Lung, and Blood Institute for FY81-FY82. Restructures the statutory base for the National Institute of Arthritis, Metabolism and Digestive Diseases, and renames it the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases. Makes technical amendments in health planning authorizations. Makes technical amendments in health manpower authorities relating to student loans, foreign medical graduates, and the National Health Service Corps. Requires a review of neurological research, especially spinal cord regeneration research. S. 988 was signed into law (P.L. 96-538) Dec. 17, 1980.

H.R. 7036 (Waxman et al.)
Health Research Act of 1980. Amends the Public Health Service Act to establish the NIH and its Director in law. Makes uniform the statutory authority for the categorical institutes of the agency and their advisory councils. Provides specific 3-year authorizations for each of the categorical institutes. Creates the National Institutes of Health Advisory Board, and makes other amendments. Reported by the Committee on Interstate and Foreign Commerce, amended, May 16, 1980 (H.Rept. 96-997). Passed House Aug. 28, 1980. Text of H.R. 7036, as passed, substituted for provisions of S. 988. S. 988, as so amended, passed by House, Aug. 28, 1980. H.R. 7036 laid on the table.

S. 988 (Kennedy et al.)
Health Sciences Promotion Act of 1980. Amends the Public Health Service Act to establish the National Institutes of Health (NIH) and its Director in law. Makes uniform the statutory authority for the categorical institutes of the agency and their advisory councils. Extends specific authorization of appropriations for certain programs within the National Institute on Arthritis, Metabolism, and Digestive Diseases. Provides funding for other programs, including those of the National Cancer Institute and the National Heart, Lung, and Blood Institute (until now provided for with specific dollar authorizations), on the basis of the general research authority given to the Department of Health and Human Services by the Public Health Service Act. Establishes the President's Council for the Health Sciences. Requires the Director of NIH to conduct programs to reduce paperwork associated with research grants. Reported by Committee on Labor and Human Resources, May 15, 1980 (S.Rept. 96-714). Passed Senate, amended, June 19,1980. Passed House, amended (substituting text of H.R. 7036, as amended), Aug. 28, 1980. Conferees recom-

mended new language for S. 988 in Conference Report 96-1478, submitted Nov. 21, 1980. Senate agreed to conference report, Dec. 1, 1980. House agreed to conference report Dec. 4, 1980. Signed into law Dec. 17, 1980 (P.L. 96-538).

Smith, Pamela; Hartman, Sarah

MLC-070

HOSPITAL COST CONTAINMENT

...double-digit rate increases...

Expenditures for hospital care have been increasing at double-digit rates for several years. The preliminary estimate of the 1979 national hospital expenditure level, $85.3 billion (or about 40% of total national health spending), for example, is 12.5% above that for 1978. Hospital expenditures in 1979 represent 3.6% of the GNP and $379 per capita.

Four basic factors help explain the increases in average cost per patient day: (1) increases in the number of hospital personnel per patient day; (2) higher wage rates for hospital employees; (3) increases in the volume of equipment and supplies per patient day; and (4) higher prices for equipment and supplies. According to a 1977 study by the President's Council on Wage and Price Stability, 75% of the increases in hospital costs per patient day reflects a growth in the number of hospital employees and an increase in the volume of hospital equipment and supplies, rather than a rise in employee wages and the prices of equipment and supplies.

Several different theories have been suggested to explain the inflationary trends in hospital costs over the years. For example, some have argued that spiralling costs are attributable to increases in the demand for hospital care and to the response by hospitals to this demand. Another theory of hospital inflation focuses attention on the methods currently used to reimburse hospitals for care rendered patients under third-party programs. Cost-based reimbursement in particular has been the subject of widespread criticism. Little pressure is applied on hospitals so paid to contain costs, since any increases are simply passed along to the third parties that reimburse on a cost basis. Still another theory of hospital inflation blames wasteful capital expenditures and certain advances in medical technology for escalating costs. A fourth theory singles out labor costs as the principal pressure on hospital costs. Supporters of this view note that hospitals are employing larger and larger numbers of personnel to produce services for patients, and that wages for such personnel have increased at rates above those received by other workers in the economy as a whole.

Though no single, overall explanation defines hospital inflation, each of the theories mentioned has contributed to a partial understanding of the cost control issue. Some of these theories, as well as a number of others, have also provided theoretical bases for previous and current efforts to moderate or limit hospital costs. These efforts include: (1) the Economic Stabilization Program, a series of economy-wide wage and price controls that lasted for health from August 1971 to April 1974; (2) hospital reimbursement limits under Medicare and Medicaid, as authorized by the 1972 amendments to the Social Security Act; (3) Federal experimentation in cost control, State rate regulation programs, and alternative reimbursement methods, such as prospective reimbursement; (4) the hospital industry's voluntary effort to control hospital expenditures; and (5) the Carter Administration's voluntary guideline which recommends that hospitals hold their increases in total expenditures to 13.4% in 1980 over 1979.

The 96th Congress considered a number of legislative proposals intended to control or, at least, slow the growth of amounts spent each year for hospital care *by containing rising hospital costs.* Some believe that enactment of such legislation is essential before any serious consideration can be given to a national health insurance program. Others believe that some sort of hospital cost controls may be necessary because the increasing expenditure levels for health have become a significant drain on scarce Federal, State, and local budget resources. There are also concerns about the impact of proposed controls, particularly about the effect of cost containment programs on the quality of hospital care. Many regard previous efforts to contain hospital costs as unsatisfactory, present methods as insufficiently tested, and question whether efforts proposed to control costs can be effective.

Major bills before the 96th Congress included H.R. 2626/S. 570 (Administration bill), H.R. 934 (formerly S. 505, Talmadge/ Dole), and S. 2885.

LEGISLATION

H.R. 2626 (Rangel, Waxman, by request)/S. 570 (Nelson, et al, by request)

Hospital Cost Containment Act of 1979. Establishes voluntary limits on annual increases in total hospital expenses. Provides for mandatory limits on the annual increases in hospital inpatient revenues if the voluntary limits are not effective. H.R. 2626 was introduced Mar. 6, 1979; referred jointly to Committees on Interstate and Foreign Commerce, and Ways and Means; joint House hearings held Mar. 12, 1979; hearings held by Ways and Means Committee on Mar. 23, 26, and 29, 1979; hearings held by House Interstate and Foreign Commerce Committee on Apr. 2, 9, 30 and May 21 and 23, 1979; approved, as modified, by Ways and Means Committee July 17, 1979; reported by Ways and Means Committee Aug. 1, 1979 (H.Rept. 96-404, Part I); reported by Interstate and Foreign

Commerce Committee on Oct. 9, 1979 (H.Rept. 96-404, Part II); H.R. 2626 passed by the House as amended by a substitute (H.R. 5635) on Nov. 15, 1979. S. 570 was introduced Mar. 7, 1979; referred to Committees on Finance and Human Resources; hearings held by Labor and Human Resources Committee on Mar. 9 and 15, 1979; hearings held by Finance Committee on Mar. 13-14, 1979; S. 570 approved, as modified, by Labor and Human Resources Committee June 13, 1979.

H.R. 2626 (Rangel, Waxman)

As amended by H.R. 5635 and passed by the House on Nov. 15, 1979: Establishes a national commission on hospital costs to report on the voluntary effort to control hospital costs and other measures to control health care costs. Establishes a voluntary goal for hospital cost containment for CY79 and each succeeding year equal to four percentage points below the rate of increase in total hospital expenditures in CY77, to be adjusted for changes in the rate of inflation. Authorizes grants to States for qualified hospital cost containment programs.

H.R. 2626 (Rangel, Waxman)

As reported by House Committee on Ways and Means on Aug. 1, 1979.

Establishes a 4-year program which includes (1) voluntary limits on annual increases in total hospital expenses; and (2) mandatory limits, subject to congressional veto, on annual increases in hospital inpatient revenues if the voluntary limits are not effective.

H.R. 2626 (Rangel, Waxman)

As reported by House Interstate and Foreign Commerce Committee on Oct. 9, 1979:

Establishes a 5-year program which includes (1) voluntary limits on annual increases in total hospital expenses; and (2) mandatory limits, subject to congressional veto, on annual increases in hospital inpatient revenues if the voluntary limits are not effective.

S. 570 (Nelson) (As approved by Senate Committee on Labor and Human Resources on June 13, 1979)

Establishes a 5-year program which includes (1) voluntary limits on annual increases in total hospital expenses; and (2) mandatory limits on annual increases in hospital inpatient revenues if the voluntary limits are not effective.

H.R. 934 (As reported by Senate Finance Committee on Dec. 10, 1979) (Formerly S. 505, Talmadge, Dole)

Medicare-Medicaid Administrative and Reimbursement Reform Act of 1979 (Sections 202, 203, and 204; formerly sections 2, 3, and 4). Revises Medicare and Medicaid reimbursement to hospitals for certain inpatient routine operating costs. Establishes payments to promote closing and conversion of underutilized facilities. Requires approval of capital expenditures by planning agencies for purposes of Medicare and Medicaid reimbursement. Introduced by Senator Talmadge on Mar. 1, 1979; referred to Finance Committee. Hearings held on Mar. 13-14, 1979. Sections 3 and 4 approved by Finance Committee Mar. 22, 1979. Section 2, as modified, approved by Finance Committee June 13, 1979. S. 505 ordered reported as H.R. 934, amended by Finance Committee, on July 12, 1979. H.R. 934 reported by Finance Committee Dec. 10, 1979 (S.Rept. 96-471). Sections 202 and 203, with minor changes, included as sections 551 and 552 of S. 2885 which passed the Senate on June 30, 1980. These sections were not included in the Conference Agreement, which passed both Houses of Congress on Dec. 3, 1980.

S. 2885 (Hollings)

Reconciliation Act of 1980 (sections 551 and 552; similar to sections 202 and 203 of H.R. 934, with minor changes). As passed by the Senate on June 30, 1980: Revises and Medicaid reimbursement to hospitals for certain in-patient routine operating costs. Establishes payments to promote closing and conversion of underutilized facilities. Introduced June 26, 1980. Ordered reported by the Senate Committee on the Budget June 26, 1980. Passed by the Senate June 30, 1980. As passed by Congress and signed into law on Dec. 5, 1980 (P.L. 96-499), did not include these two sections.

Pernice, Janet

MLC-071

MEDICARE AND MEDICAID

...96th Congress modifies Medicare and Medicaid...

Medicare and Medicaid are the popular names given to the two programs enacted by Congress in 1965 that help aged and poor persons pay for the costs of their medical care. Medicare is a nationwide health insurance program for the aged and disabled, while Medicaid is a federally aided State-operated and -administered program for certain categories of low income persons. Medicare Part A (the Hospital Insurance Program) will cost an estimated $26.3 billion in FY81. Part B of Medicare (the Supplementary Insurance Program) will cost an estimated $12.2 billion in that year. Medicaid will cost an estimated $27.6 billion, of which $15.6 billion is the Federal share.

On Dec. 3, 1980, both the House and Senate passed the conference report on H.R. 7765, the Omnibus Reconciliation Act of 1980. Title IX of that measure, referred to as the "Medicare and Medicaid Amendments of 1980," included a number of amendments to these two programs. The legislation contains a number of benefit modifications (including expansion of the Medicare home health benefit), several cost-savings provisions a number of minor reimbursement and administrative modifications, and several amendments to the PSRO program. The measure was signed into law as P.L. 96-499 on Dec. 5, 1980.

On June 9, 1980, the President signed into law the Social Security Disability Amendments of 1980 (P.L. 96-265), which includes a provision for voluntary certification of Medicare supplemental health insurance policies.

The Congress also considered but did not enact legislation designed to replace the existing early and periodic screening, diagnosis, and treatment (EPSDT) program under Medicaid with an expanded child health assurance program. The House passed H.R. 4962 on Dec. 11, 1979 while the Senate Finance Committee reported S. 1204 on July 30, 1979. There were substantial differences between the House and Senate bills.

LEGISLATION

P.L. 96-265, H.R. 3236

Social Security Disability Amendments of 1980. Includes a provision to provide for voluntary certification of Medicare supplemental health insurance policies effective July 1, 1982. Specifies that certified policies would have to provide minimum coverage, be clearly written, and return to policyholders in the form of aggregate benefits 75% of the amount collected in the case of group policies and at least 60% in the case of individual policies. The program would not be applicable in any State which is determined by a panel (composed of four State insurance commissioners and the Secretary) to have implemented under State law a regulatory program that provides for the application of standards with respect to Medicare supplemental policies equivalent to or more stringent than the Federal program. Eliminates the second waiting period for reentitled disability beneficiaries and extends Medicare coverage for persons whose cash disability payments cease but who have not medically recovered. Comparable voluntary certification provision added as a Finance Committee amendment during floor consideration of Dec. 5, 1979. Substitute approved Jan. 30, 1980. No comparable provision in House bill. H.R. 3236 was introduced Mar. 27, 1979; referred to Committee on Ways and Means. Reported to House, amended, Apr. 23, 1979 (H.Rept. 96-100). Passed House, amended, Sept 6, 1979. Reported to Senate, amended, Sept. 8, 1979 (S.Rept. 96-408). Passed Senate Jan. 31, 1980. Conference report (H.Rept. 96-944) filed May 13, 1980. Signed into law (P.L. 96-265) June 9, 1980.

P.L. 96-499, H.R. 7765

Omnibus Reconciliation Act of 1980 (measure required in conjunction with budget reconciliation process), Title IX of measure entitled "Medicare and Medicaid Amendments of 1980." Includes a number of provisions originally contained in the versions of H.R. 3990 and H.R. 4000 as reported by the Ways and Means and Commerce Committees (where differences existed between the two committee versions, compromise language was reported to the Budget Committee) and some provisions of H.R. 934 (as reported by the Senate Finance Committee). Also includes cost-savings provisions added by the committees when they made their recommendations to their respective budget committees. Incliudes a number of benefit modifications including liberalization of the Medicare home health benefit coverage of comprehensive outpatient rehabilitation services and full coverage of certain surgical procedures under Medicare when performed on an outpatient basis. Includes a number of administrative modifications including extension of increased matching for Medicaid fraud control units, and for provision for coordinated audits under the two programs. Authorizes several modifications to the PSRO program including those pertaining to non-physician participation on advisory groups. Provides for a one-time 3-week delay in periodic interim payments under Medicare. Makes minor reimbursement modifications and includes provisions pertaining to long term care facility services, including permitting certain hospitals to enter into a "swing bed" agreement. Reported July 21, 1980 (H.Rept. 96-1167). Passed House, amended, Sept. 4, 1980. Passed Senate in lieu of S. 2885, with amendments, Sept. 17, 1980. Reported by conference committee Nov. 26, 1980 (H.Rept. 96-1479). Passed House and Senate Dec. 3, 1980. Signed into law Dec. 5, 1980.

H.R. 4962 (Waxman et al.)

Child Health Assurance Act of 1979. Replaces the current program for early and periodic screening, diagnosis and treatment under Medicaid with an expanded child health assessment program. Among other things, makes additional children and pregnant women eligible for Medicaid coverage; establishes a nationwide minimum income standard for coverage of pregnant women and children; seeks to better assure that eligible children receive preventive and treatment services by encouraging providers to care for children on a continuing basis; and provides for an increased Medicaid matching rate. Introduced July 25, 1979; referred to Committee on Interstate and Foreign Commerce. H.R. 4962 is a clean bill produced by the Health Subcommittee during their markup on the three original House bills, H.R. 2159, H.R. 2461, and H.R. 4053. Hearings held by Subcommittee on Health and the Environment June 7, 1979. Reported to House, amended, Oct. 26 (H.Rept. 96-568). Passed House, amended, Dec. 11, 1979.

S. 1204 (Ribicoff et al.)

Child Health Assessment Act of 1979 and Medicaid Funding for the Territories. Replaces the early and periodic screening, diagnosis and treatment program under Medicaid with a new child assessment program (CHAP). Makes additional children eligible for Medicaid coverage. Increases the proportionate share of the costs of health assessments and outpatient treatment for Medicaid children that is paid for by the Federal Government. Provides incentives for more successful operation of health assessment and followup programs by the States. Assures that all types of eligible health care practitioners and agencies may serve as CHAP providers. Provides for penalties (in the form of reduced matching of administrative costs) for States that do not meet minimum performance standards in their CHAP, and bonuses, in the form of increased matching for Medicaid administrative costs, for those that perform exceptionally well. Increases the ceiling on Federal Medicaid payments to the territories and modifies the matching formula. Introduced May 22, 1979; referred to Committee on Finance. Hearings held June 25, 1979. Reported July 30, 1979 (S.Rept. 96-274).

O'Sullivan, Jennifer
IB76028

MLC-072

MENTAL HEALTH SYSTEMS ACT

...new services for the mentally ill...

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, P.L. 88-164, authorized, among other things, the establishment of Federal financial assistance to States for the construction of community mental health centers. Amendments to that legislation in 1965 added authorization of grants to help meet the costs of staffing such centers.

The Congress believed, in creating this program, that community- based centers could be more effective in dealing with the problems of treating the mentally ill than the institutional program of State and county mental hospitals that dominated the mental health care scene at that time. Community-based outpatient treatment programs were expected to replace large residential institutions as the main force for dealing with mental health problems across the country.

This change in the pattern of treatment of mental health illness has taken place. The population of large mental institutions has declined - from approximately 600,000 in 1965 to about 160,000 at present. In 1955, three out of four persons treated for mental disorders received treatment as inpatients. At the present time, three out of four persons receiving mental health care are treated on an outpatient basis. Large mental hospitals mainly provide long term care for those with chronic mental illness and serve as back-up facilities for community-based care, used for short term hospitalization in periods of crisis.

The Community Mental Health Centers (CMHC) Act and subsequent amendments played a significant role in assisting the growth of community outpatient facilities. Since the beginning of the program, the National Institute of Mental Health, in administering the Act, has provided funding for a total of 763 centers: 95 with construction grants only, 281 with staffing or operations grants, and 387 with both construction and staffing or operations grants. At the present time, 744 of these centers are fully operational, providing the required services and, in many cases, additional programs designed to meet the special needs of their communities.

President Carter, in 1977, established a Commission on Mental Health to review and make recommendations on the mental health needs of the Nation. The Commission presented a four-volume report containing its findings and recommendations to the President in 1978.

The Commission in its report found that the CMHC Act had accomplished a great deal, but it also found that substantial problems persisted. The report noted that certain populations, such as the chronically mentally ill, children and youth, the elderly, racial and ethnic minorities, the poor, and rural residents were underserved by the program. It also noted shortages of trained personnel in certain areas of need. It noted inadequacies in efforts to prevent mental illness and promote mental health.

The report made recommendations in eight broad areas: community support, services, insurance, personnel, basic rights, research, prevention, and public understanding.

One recommendation was for the enactment of a new Federal grant program for community mental health services with priority for services to be given to the various underserved groups noted by the Commission.

The Department of HEW developed a bill based on the Commission's recommendations; it was transmitted to the Congress as the Carter Administration's proposal for a Mental Health Systems Act. On May 21, 1979, Senator Kennedy and others had introduced in the Senate a different bill, S. 1177, reflecting their legislative response to the Commission's recommendations. Hearings on these respective proposals began soon thereafter.

LEGISLATION

P.L. 96-398, S. 1177

Mental Health Systems Act. As amended: Extends Community Mental Health Centers Act (CMHC) for 1 year, through FY81. Beginning with FY82, establishes a new Mental Health Systems program with grants to community health centers to assist in meeting their costs of operation. Such centers would have to provide certain required comprehensive mental health service. Requires mental health service areas served by centers to conform generally with health service areas established under the health planning law. Establishes other special grant programs as follows: (1) grants for services for chronically mentally ill individuals; (2) grants for services for severely mentally disturbed children and adolescents; (3) grants for services for elderly individuals and other priority populations; (4) grants for providing non-revenue-producing services, such as consultation and education services, followup services, etc.; (5) grants to assist health care centers in providing mental health services to their patients; (6) grants and contracts for such innovative projects as training and retraining employees adversely affected by changes in the delivery of mental health services, the innovative uses of personnel, and other innovative projects of national significance; (7) grants for the prevention of mental illness and the promotion of mental health. Requires a State, in order to receive such grants, to have in effect a State mental health services program, prepared by the State mental health authority. Authorizes the State mental health authority to become the exclusive agent in the State for mental health services funded under this Act. Describes requirements a State authority would have to meet in order to be so designated. Authorizes grants to assist States in meeting these administrative provisions. Also authorizes allotments to States to improve the administration of State mental health programs and to carry out State activities relating to planning and program design, data collection, data analysis, research, evaluation, setting and enforcing regulatory and other standards, reporting to the Secretary, and establishing or operating mental health patients rights protection programs. Requires that no grant or contract payment could be made to an entity unless the entity has entered into a performance contract with the Secretary containing a schedule for performance of grant activities, performance standards, methods and format for collecting and transmitting data, a method for resolution of disputes, and other matters. Requires that applications for grants be submitted to qualified State authorities that would review, and could revise and rate them in the order they would be funded if approved by the Secretary. Provides certain special procedures that would apply for Indian tribes, intertribal organizations, or urban Indian organizations regarding grant applications. Requires the director of NIMH to designate an administrative unit for activities relating to prevention of mental illness and promotion of mental health. Requires the director of NIMH to designate an Associate Director for Minority Concerns. States the sense of Congress that each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require. Suggests a bill of rights based on recommendations of the President's Commission on Mental Health for States to take into account. Authorizes grants to States for projects to protect and advocate the rights of mentally ill individuals. Authorizes grants for rape prevention and control programs and for services for rape victims. Requires each State mental health authority to have in effect equitable arrangements to protect the interests of employees affected adversely by actions taken by the authority to emphasize outpatient mental health services. Requires the Secretaries of HHS and HUD to submit a joint report to Congress on Federal efforts to respond to the shelter and basic living needs of chronically mentally ill individuals. Amends existing authority under section 303 of the PHS Act regarding mental health traineeships to provide that a person who has received such traineeship that was not of a limited duration or experimental nature would be obligated to work in a service pay back in areas of need at the rate of 1 year for each academic year of the traineeship. Requires that commissioned medical and dental officers in the Public Health Service be paid special pay at rates equal to that paid to commissioned medical and dental officers of the Armed Services. Amends the Medicaid program to require States to establish mechanized claims processing and information retrieval systems.

The Senate bill, S. 1177, was introduced May 17, 1979, and referred to the Committee on Labor and Human Resources. A House bill, H.R. 4156, was introduced May 21, 1979, and referred to the Committee on Interstate and Foreign Commerce. Hearings on S. 1177 held May 24 and June 11, 1979. Hearings on H.R. 4156 held June 14, 25, and 26, 1979. S. 1177 reported, amended, by Committee on Labor and Human Resources May 15, 1980 (S.Rept. 96-712). On May 7, 1980, the Subcommittee on Health and the Environment, House Interstate and Foreign Commerce Committee, approved for full committee action a clean bill -- H.R. 7299 -- to introduce in lieu of H.R. 4156. H.R. 7299 reported by Interstate and Foreign Commerce Committee May 15, 1980 (H.Rept. 96-977). S. 1177 passed by Senate with amendments by roll call vote July 24, 1980. H.R. 7299 passed by House with amendments Aug. 22. House agreed to pass S. 1177 in lieu, amended to contain language of H.R. 7299. House and Senate conferees met in August and September to mark up conference report. The conference report on S. 1177 (H.Rept. 96-1367) passed by the Senate Sept. 24 and by the House Sept. 30, 1980. Signed into law as P.L. 96-398 Oct. 7, 1980.

Klebe, Edward

MLC-073

NATIONAL HEALTH INSURANCE

...several significant bills introduced in 96th Congress...

Congress has tried for more than 30 years to frame a national health insurance program that would provide Americans with protection against the high cost of health care and, at the same time, improve the efficiency and economy of the health system. Expenditures for health purposes in the United States totaled $192.4 billion in CY78, approximately doubling the figure of 7 years previously, and representing a per capita outlay of $863 for every man, woman, and child. The government share (Federal, State, and local) of the national health bill has increased substantially over the past 10 years -- from 24.5% to the present level of 40.6% of the total. This increase in government health spending has come about largely as a result of the Medicare and Medicaid programs, which encompass only a limited portion of the population; namely, the aged and disabled, and the poor and medically indigent.

While 76% of Americans possess some form of private coverage for hospitalization, overall protection under private health insurance plans is considered inadequate by many. Out-of-hospital physician care, dental care, prescription drugs, nursing care, and "catastrophic-type" expenses are far less commonly insured under the existing private plans held by the majority of the population.

Uneven allocation and distribution of health resources throughout the Nation compound the problem afflicting the health care system: in many rural areas and inner cities, there is not a single active physician providing care to patients. For persons living in these areas, the high cost of medical care is thus not the only factor rendering care inaccessible.

Several significant proposals were introduced as bills in the 96th Congress. On Mar. 27, 28, and 29, 1979, the Senate Committee on Finance held hearings on catastrophic health insurance and medical assistance reform. On June 20, 1979, the committee began consideration of catastrophic health insurance legislation. It tentatively approved requiring employers to provide and contribute financially toward the cost of a catastrophic plan for full-time employees and their dependents. Employer-based plans would have been required to limit the amount of covered health expenses for which an individual or family would be liable to a maximum of $3,500 per year; the deductible for lower income employees could not have exceeded 25% of income. The committee also tentatively approved a maximum limit of $1,000 per year on cost-sharing under Medicare. Expectations were that after the broad outlines of a plan had been agreed to, a bill incorporating these decisions would be drafted for consideration by the committee. On Mar. 18 and 19, 1980, the Subcommittee on Health of the Senate Finance Committee held hearings on proposals such as S. 1968, to stimulate competition in health care. (See also IB79060: Health: Catastrophic Health Insurance.)

On Nov. 29, 1979, a joint hearing of the Health Subcommittee of the House Interstate and Foreign Commerce and Ways and Means Committees heard testimony on both the Administration and Kennedy-Waxman proposals. On Feb. 11, 12, 21, and 25, 1980, the Subcommittee on Health of the Committee on Ways and Means held hearings on the various national health insurance proposals.

LEGISLATION

H.R. 6405 (Martin et al.)

Medical Expense Protection Act. Establishes a Catastrophic Automatic Protection Plan (CAPP) providing every American with protection against the costs of catastrophic illness. Program would assist individuals and families with meeting large medical expenses after they had incurred out-of-pocket medical expenses equal to a certain percentage of family income. Provides tax and other financial incentives to encourage employers and employees to purchase "qualified" health plans, which would have to cover the cost of CAPP covered services without coinsurance after the individual or family had incurred out-of-pocket medical expenses of $2,500. Benefits provided would be similar to those currently provided under Medicare. Amends Medicare to eliminate the hospital coinsurance under Part A and remove the limit on the number of hospital days. Introduced Feb. 4, 1980; referred to Committees on Ways and Means, and Interstate and Foreign Commerce. Hearings by Subcommittee on Health held Feb. 11-12, 1980.

H.R. 7527 (Gephardt and Stockman)

National Healthcare Reform Act of 1980. Provides for qualified Healthcare Plans, which could be sponsored by hospitals, doctors, nonprofit or commercial insurance companies, or others who developed innovative delivery systems. Each citizen would be eligible to benefit in one of the following ways: (1) a tax exclusion limit on health plan contributions by employers; (2) a tax credit to those who are either self-employed or whose employers do not pay health insurance premiums; (3) an option for Medicare beneficiaries to receive a government-offered health plan contribution instead of Medicare benefits; (4) an option for States of a gradual federalization of the Medicaid program. Also repeals current laws regulating the health care industry such as certificate of need, health planning, Professional Standards Review Organization, and others. Introduced June 9, 1980; referred jointly, to Committees on Ways and Means, Interstate and Foreign Commerce, Judiciary, and Post Office and Civil Service.

S. 350 (Long et al.)

Catastrophic Health Insurance and Medical Assistance Reform Act. Creates a catastrophic health insurance program to be made available to all U.S. residents through either a federally administered public plan or private plans allowed as an option to employers and the self-employed, who would be required under the bill to pay the full cost of catastrophic protection for their employees. Replaces Medicaid with a uniform national program of medical benefits for low-income persons. Provides for a voluntary Federal certification program for basic private health insurance to encourage private insurers to make such basic coverage (supplemental to the catastrophic plan) available in all areas of the country at reasonable rates. Introduced Feb. 6, 1979; referred to Committee on Finance. Hearings held Mar. 27-29, June 19, 21, 1979. Markup held June 28, Nov. 1, 6-7, 1979.

S. 748 (Danforth, Dole, and Domenici)

Catastrophic Health Insurance and Medicare Amendments Act of 1979. Improves basic benefits under Medicare by providing unlimited hospital and home health coverage and expanded skilled nursing facility and mental benefits. Provides certain benefits after a specified catastrophic deductible is met: elimination of coinsurance for medical services and limited outpatient drug benefits. Requires employers to offer employees a health plan that provides protection against the costs of catastrophic illness. Under this provision, employers with large increases in payroll expenses are eligible for a tax credit and employers not offering the required protection would be penalized. For low-income persons, provides catastrophic coverage for persons eligible for Medicaid. Allows States to buy private insurance to meet this requirement. For low-income persons not eligible for Medicaid and not covered by an employer's plan, requires the Federal Government to subsidize premiums to help them purchase their own catastrophic coverage. Introduced Mar. 26, 1979; referred to Committee on Finance. Hearings held Mar. 27-29, June 21, 1979. Markup held June 28, Nov. 1, 6-7, 1979.

S. 760 (Long)

Creates a catastrophic health insurance program. Similar to S. 350 described above except that instead of financing the program through a 1% payroll tax on employers and administering it through the Federal Government, the new bill would require employers to provide their employees with catastrophic protection. Provides tax credits to small employers for the cost of the program and allows those who do not have permanent full-time employment or do not qualify for Medicare or Medicaid to receive partial tax credits for the purchase of catastrophic policies. Other parts of the bill dealing with the federalization of Medicaid and the Federal certification of basic private health insurance are similar to parts of S. 350. Introduced Mar. 26, 1979; referred to Committee on Finance. Hearings held Mar. 27-29, June 21, 1979. Markup held June 28, Nov. 1, 6-7, 1979.

S. 1590 (Schweiker et al.)

Comprehensive Health Care Reform Act. Requires large employers to offer employees at least three competitive health insurance plans, at least one of which would have to contain provision for patient cost-sharing for hospital services, in order for the business expense tax deduction for employer contributions to be allowable. Provides for a minimum level of catastrophic health insurance protection for all Americans by utilizing a combination of (1) additional prerequisites for tax-deductible employer-based health insurance plans, (2) State-administered insurance pooling arrangements, and (3) increased Medicare benefits. Encourages preventive health care by requiring that any tax deductible health insurance plan must contain a prescribed level of preventive benefits. Introduced July 26, 1979; referred jointly to Committees on Finance, and Labor and Human Resources.

S. 1720 (Kennedy et al.)/H.R. 5191 (Waxman et al.)

Health Care for All Americans Act. Provides for a national health insurance program covering the entire population, financed through employer-employee wage-related premiums, Medicare payroll taxes and premiums, State payments for the poor, and Federal general revenues. The program would be administered primarily by certified private health insurers and HMOs, with the Federal Government continuing to administer Medicare. A national budget would be established for all services covered under the program, with increases limited to rates of increase in the GNP. Introduced Sept. 6, 1979. S. 1720 referred jointly to Committees on Finance, and Labor and Human Resources. H.R. 5191 referred jointly to Committees on Interstate and Foreign Commerce, and Ways and Means. Hearings on H.R. 5191 held by Subcommittee on Health and Environment Nov. 29, 1979, and by Subcommittee on Health Nov. 29, 1979, and Feb. 11-12, 1980.

S. 1812 (Ribicoff et al.)/H.R. 5400 (Rangel et al.)

National Health Plan Act (Administration proposal). Provides for (1) a Federal insurance program (to be known as Healthcare) providing comprehensive coverage for the aged, disabled, and poor, and offering insurance against major medical expenses to other individuals and small employers; and (2) a system of mandated employer-based coverage for workers and their families through approved private insurance plans. Healthcare would incorporate Medicare and acute care portions of Medicaid. Introduced Sept. 25, 1979. S. 1812 referred jointly to Committees on Finance, and Labor and Human Resources. H.R. 5400 referred jointly to Committees on Interstate and Foreign Commerce, and Ways and Means. Hearings held by Subcommittee on Health Nov. 29, 1979, and Feb. 11-12, 1980.

S. 1968 (Durenberger et al.)

Health Incentives Reform Act of 1979. Designed to encourage both competition in the health insurance industry and the provision of catastrophic health insurance by employers. Requires employers to offer a choice to employees of at least three health benefit plans that meet certain basic requirements. Unless the requirements are met, employees lose the benefit of excluding employer contributions from taxable income. The employer's contribution remains the same, regardless of the employee's choice; the employee who chooses an economical plan keeps the savings while the employee who chooses a more expensive plan must pay the additional cost. All health benefit plans would be required, as a minimum, to provide at least the same types of services covered under Medicare, as well as catastrophic expense protection. Introduced Nov. 1, 1979; referred to Committee on Finance. Hearings held by Subcommittee on Health Mar. 18, 1980.

Klebe, Edward
IB73015

MLC-074

RADIATION HEALTH AND SAFETY

...increased exposure to potential hazards...

The exposure of human beings to the potential hazards of ionizing and non-ionizing radiation has increased substantially in the past decade. Ionizing radiation hazards are from a variety of sources, including diagnostic and therapeutic radiation (now the major source of ionizing radiation exposure); radioisotopes used for industrial and research purposes; the proliferation of nuclear power plants and their associated wastes; occupational exposure in uranium mines; and, although much less serious currently, radioactive fallout from nuclear weapons tests. Non-ionizing radiation hazards emanate from increasingly numerous and powerful radio, microwave, and laser sources as well as from the increasing applications of ultraviolet and ultrasound in medicine and industry. All these man-produced radiation burdens add to naturally occurring background radiation of both types. Laws have been enacted by the Congress to protect the public from man-produced radiation. Authority to administer these laws is spread through nearly two dozen major Federal agencies. In addition, certain States and municipalities are under regional radiation health and safety authority. The proliferation of both sources of radiation and regulatory authority have served to emphasize the need for greater attention to the careful use of radiation and for effective coordination of activities of the many Federal, State, and local regulatory authorities.

In the first session of the 95th Congress, P.L. 95-236 (S. 266), authorizing appropriations to the Department of Energy (DOE) for nuclear energy, environmental, and radiation health research programs, was signed into law. Other legislation related to radiation health and safety issues was not acted on. During the second session of the 95th Congress, hearings on the health effects of low-level ionizing and non-ionizing radiations were held by the House Committees on Interstate and Foreign Commerce, and Government Operations.

During the 96th Congress, legislation was introduced to provide for better protection of the public from low-level radiation hazards from nuclear power plants, nuclear wastes, and other sources, as well as to better coordinate Federal research and regulatory activities (H.R. 6057, H.R. 6745, and S. 1938); to compensate victims of exposure to radiation from nuclear to bomb tests and uranium mines (S. 1827 and S. 1865); and to protect the public (including consumer patients) from unnecessary exposure to medical radiation (S. 2539). Hearings on all of these issues and bills were held. However, only S. 1938 was marked up, but was never reported out of committee. None of the radiation safety and health legislation introduced in the 96th Congress was passed.

LEGISLATION

S. 1938 (Glenn et al.)

Federal Radiation Protection Management Act of 1979. Ensures adequate protection of workers, the general public, and the environment from harmful radiation exposure, to establish mechanisms for effective coordination among the various Federal agencies involved in radiation protection activities, to develop a coordinated radiation research program, and for other purposes. Introduced Oct. 24, 1979; referred to Committee on Governmental Affairs. Subcommittee on Energy and Federal Services held hearings Mar. 20, 1980. Bill was marked up in March 1980 but never cleared the committee.

Dodge, Christopher H.
IB77062

MLC-075

SACCHARIN: THE PROPOSED BAN

...Senate votes to extend moratorium...

Approximately 1,100 food additives and 40 color additives are regulated for direct addition to food under requirements of the 1958 Food Additive Amendment to the Food, Drug, and Cosmetic Act. Because of safety and anti-cancer clauses in the Act, FDA is required to ban from commerce any food additives found to be carcinogenic in animals or humans or otherwise harmful to health. Under the general regulations, a number of additives and colors were banned. On Mar. 9, 1977, the FDA announced that saccharin, the only available artificial sweetener, was found to cause cancer in experimental animals. Under the "Delaney" anti-cancer clause of the Food, Drug, and Cosmetic Act, the FDA moved to ban saccharin use in the marketplace.

Public support for the FDA initiative, however, was far from overwhelming, since saccharin and saccharin-containing products are used by millions of persons. During the 95th Congress, several congressional hearings were held to evaluate the medical, social, and financial consequences of a ban on saccharin, as well as to examine whether a total prohibition of saccharin or other food additives found to induce cancer in animals is in the best public interest.

On Nov. 23, 1977, President Carter signed the Saccharin Study and Labeling Act -- P.L. 95-203 (S. 1750). The law required that within 90 days of enactment, all packages of saccharin and food containing saccharin must carry labels warning that the product could cause cancer; prohibited the Food and Drug Administration from implementing the proposed ban for 18 months; and provided for a study of the toxicity and carcinogenicity of saccharin and its impurities, the health benefits, if any, from the use of non-nutritive sweeteners, and the evaluation of Federal regulatory policy.

As required under P.L. 95-203, the National Academy of Sciences released its first study assessing the risks of saccharin in November 1978. The Academy's panel of experts concluded that saccharin is indeed a carcinogen, although one of low potency, as compared with other cancer-causing agents. The panel also stated that additional laboratory tests to establish the carcinogenicity of saccharin are not needed. The second portion of the Academy's study, assesssing U.S. food safety policy, was released on Mar. 2, 1979. This report deemed saccharin a carcinogen of moderate to high risk. However, the report called upon Congress to overhaul U.S. food safety policy and grant the FDA more discretion in its regulation of carcinogenic and other toxic substances in the food supply.

On May 23, 1979, the saccharin moratorium expired, and the FDA was permitted to reissue its proposal to restrict the availability of saccharin. The 96th Congress passed legislation, signed into law as P.L. 96-273, which extended the saccharin ban moratorium until June 30, 1981.

In support of FDA's position, the National Cancer Institute, in December 1979 presented a progress report on the National Bladder Cancer Study to the FDA. According to preliminary results, the study found no increased bladder cancer risk in the overall study population from the use of artificial sweeteners (AS). However, heavy users of AS (six or more servings of AS a day or two or more 8-oz. diet drinks) showed a 60% increased risk of bladder cancer. The study noted that, "Pending further evaluation, we also believe the associations observed in this study among heavy users of AS lend support to experimental data implicating AS as a potential factor for human bladder cancer."

LEGISLATION

P.L. 96-273, H.R. 4453

Amends the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin. Introduced June 13, 1979; referred to Committee on Interstate and Foreign Commerce. Reported July 17, 1979 (H.Rept. 96-348). Passed House July 24, 1979. Reported by Senate Committee on Labor and Human Resources (S.Rept. 96-715) May 15, 1980. Passed Senate June 9, 1980. Signed into law June 17, 1980.

Hartman, Sarah
IB77038

HOUSING

MLC-076

HOUSING ASSISTANCE TO LOW- AND MODERATE-INCOME HOUSEHOLDS

...shift to greater use of existing units...

Since 1937, the Federal Government has been involved in the provision of housing for low- and moderate-income families. During much of this time, its efforts were directed toward promotion of new construction, through subsidy of capital costs in public housing or of interest rates in privately built housing for moderate income families. In the 1960s, dissatisfaction with public housing projects led to rental subsidies for leased units in existing housing, and then to rent supplement payments for tenants in moderate-income construction built with interest subsidies. The costs and apparent inequities in these programs led to their suspension by the Administration in January 1973.

Housing subsidy programs were re-instituted in late 1974. The Housing and Community Development Act of 1974 established the Section 8 leased housing assistance payments program as the primary vehicle for providing decent housing for lower income families. Under this program, HUD makes payments to private landlords on behalf of lower income tenants to cover the difference between 15% to 25% of the tenant's income and a HUD determined fair market rent. Through these payments, the Section 8 program encourages the utilization of existing units, the rehabilitation of deteriorated units, and the construction of new housing for lower income families. As of June 30, 1980, 927,000 units were occupied, of which 663,000 were existing units and 264,000 new or substantially rehabilitated. Cumulatively, 1,622,000 units of all types had been reserved from the start of the program to the end of July, 1980. The major issues concerning the program were the level of appropriations, the mix among programs, and the per unit costs, particularly of new construction and rehabilitation. The authorization act shifts use of Section 8 funds from subsidizing 2/3 new construction units and 1/3 existing to half new construction, half existing.

LEGISLATION

P.L. 96-103, H.R. 4394

Dept. of Housing and Urban Development-Independent Agencies Appropriations Act, 1980. Appropriates $1.141 billion in contract authority and $26.68 billion in budget authority for Section 8 and public housing. Fifty million dollars is to be used for modernizing public housing. The amount of $741.5 million is appropriated for operating subsidies for public housing; $830 million for Section 202 loans; and $79.5 million for assistance to troubled projects. Signed into law on Nov. 5, 1979.

P.L. 96-153, H.R. 3875

Housing and Community Development Amendments of 1979. Authorizes a total of $1.141 billion in annual contributions contract authority, of which not more than $195 million is for conventional public housing (including not less than $50 million for modernization); $741.5 million is authorized for public housing operating subsidies, and authority is given to continue payment of operating subsidies to a low-income project after expiration of its annual contributions contract; and $82 million for additional aid for troubled projects. It authorizes HUD to establish a maximum rent payment in conventional public housing of 30% of income for other than very-low income families, whose payment would remain at no more than 25%; in Section 8 housing, maximum rent for a very low-income family is set at between 15 and 25% of income; for a large very low-income family or lower-income family with exceptional medical or other expenses, at 15% of income; for a very large lower-income family, 20% of income; and for other families, not less than 20% nor more than 30% of income. These provisions shall not apply to tenants in occupancy prior to Jan. 1, 1980, who will continue to pay rent under the rules in effect in 1979. For new tenants, the definition of income, required rent payments, and eligibility priorities for assistance under Section 236 or with rent supplements are made consistent with those of Section 8. HUD is required to establish appropriate procedures for verifying tenants' incomes, including reference to income tax returns and data submitted for other benefit programs, such as food stamps. Preference is to be given to families occupying substandard housing or involuntarily displaced, in selecting tenants for public housing or to receive Section 8 or rent supplement assistance. For housing for the elderly and handicapped, assisted under Section 202, additional loans are authorized for FY80 of $527.5 million (exclusive of $340 million previously authorized and not appropriated), $950 million for FY81, and $975 million for FY82. In selecting projects, HUD is authorized to consider the extent to which the proposed project will assist in stabilizing or revitalizing neighborhoods or in providing housing for elderly or handicapped families in neighborhoods from which they might be displaced. The Secretary is authorized to exceed statutory limits for Section 235 mortgages by 20% if the dwelling is in an area undergoing revitalization and such increased limits are necessary to enable eligible families already in the area to remain. Preference shall be given to low-income families likely to be involuntarily displaced (including displacement because of conversion of rental units to condominium tenure). The assistance may be used to purchase a condominium or cooperative membership. Sections 235 and 236 are extended through FY80, but no further funds are authorized. For the first time, a limit is placed on loans which can be made by the Farmers Home Administration under Sections 502 and 515 and other FmHA programs, with a total of $4.48 billion authorized, subject to appropriation. Of this amount, at least $3.1 billion is to be used for loans in the interest credit program. Signed into law Dec. 20, 1979.

P.L. 96-399, S. 1719

Housing and Community Development Act of 1980. Authorizes $1.494 billion in contract authority and $31.2 billion in budget authority for public housing and Section 8 assistance. At least $100 million of the contract authority shall be used for a new comprehensive improvement program that provides for long-range planning and carrying out of physical modernization and upgrading of management in conventional public housing projects. Of the balance of authority, not more than 62.5% may be used for new construction and substantial rehabilitation, with not more than $265.8 million of this for conventional public housing; and not more than 37.5% may be used for existing units. Up to $10 million may be used for programs to improve security in public housing. Authorizes $826 million for operating subsidies for public housing and $31.1 million for troubled multi-family housing projects. No aid under any assistance program is to be used for the benefit of non-immigrant student aliens.

Section 8 is amended to limit HUD's approval of rents between 10% and 20% higher than area fair market rents for new constructiona and substantial rehabilitation to not more than 20% of annual contract authority allocated to the area. Rents for moderately rehabilitated units may exceed fair market rents for existing units by up to 20% if costs require, or up to 30% under special circumstances.

Section 235 mortgage limits are raised to $40,000 for small families ($47,500 in high cost areas) and $47,500 ($55,000) for large families. The limits can be exceeded by 10% for homes built for handicapped persons. A provision is added for recapture of the subsidy, for homes sold pursuant to a commitment issued later than 6 months after enactment. Upon disposition of the property, HUD is to be paid either the actual amount of assistance given or at least 50% of net appreciation, whichever is less.

A Section 235 stimulation program (235(q)) is adopted, to be in effect up to June 1, 1981, under which up to 75% of available funds can be used to reduce mortgage payments for households with incomes up to 130% of median to the greater of 25% of income (or 20% at HUD discretion) or that required for a 9 1/2% mortgage. Only homes completed within the period one year prior to enactment and never sold are eligible. The sale price cannot exceed 82% of the maximum morgage which can be insured in the area under Section 203 (b)(2). Mobile homes are eligible, with interest reduced to at least 12%, but no more than 20% of the assisted units may be mobile homes. Recapture provisions are the same as for the standard program. Activation of the program is contingent on a finding by the Secretary that there is emergency need for stimulation of the housing market.

The Secretary is required to study and submit a report not later than Jan. 1, 1982, on the effect of limiting Sec. 235 subsidies to not more than 40% of houses in a subdivision, in both the standard and stimulation programs.

The Secretary is required to conduct a comprehensive study of the feasibility of replacing categorical housing assistance programs with a housing assistance block grant program, with a report due not later than Mar. 31, 1981. Signed into law Oct. 8, 1980.

P.L. 96-526, H.R. 7631

HUD-Independent Agencies Appropriation Act. Appropriates $1.417 billion in contract authority and $30.877 billion in budget authority for Section 8 and public housing, $100.0 million of which is for modernization of public housing projects; $970.8 million for operating subsidies for public housing including $108.8 million in additional funds requested by HUD to cover a shortfall in the FY80 appropriation; $18.08 million to cover losses to the General and Special Assistance Insurance Funds, which insures Section 235 and 236 loans, among others. The appropriation for Section 202 loans is set at $855 million, and $10 million is appropriated for congregate services. The regular Section 235 program has been appropriated $70.0 million for contract authority and $2.1 billion budget authority carried over in Section 8 funds from previous appropriations has been transferred to Section 235 use. OMB has been instructed to reduce the use of budget authority appropriated in the Act by 2% overall, with not more than 3% to come from any one account. Adopted by House, Dec. 2, 1980, Adopted by Senate, Dec. 3, 1980; Signed into law Dec. 15, 1980.

Milgram, Grace
IB79058

IMMIGRATION

MLC-077

REFUGEES IN THE UNITED STATES: THE CUBAN EMIGRATION CRISIS

...major reform legislation enacted...

Major refugee reform legislation, the Refugee Act of 1980, was passed by the 96th Congress and signed into law Mar. 17, 1980. The Act amended the Immigration and Nationality Act to revise the procedure for the admission of refugees, and to provide general authority for Federal assistance for refugee resettlement in the United States. The massive emigration of Cubans to the United States beginning in April 1980 presented the first major test of the new legislation.

Justification for refugee reform legislation centered on the lack of a consistent and uniform U.S. policy on the admission of refugees and on resettlement assistance. The ideological, geographic and numerical limitations of the immigration law's regular provision for refugee admissions had resulted in the frequent ad hoc use of the Attorney General's discretionary parole authority to admit large groups of refugees. Assistance for refugees in the United States had also been provided in an inconsistent manner under a variety of authorizations.

LEGISLATION

P.L. 96-212, S. 643

The Refugee Act of 1980. Originally introduced on behalf of the Carter Administration to provide a permanent and systematic procedure for the admission of refugees and to provide comprehensive and uniform provisions for the effective resettlement of those refugees who are admitted.

Title II amends the Immigration and Nationality Act to provide for the admission of refugees. A refugee is defined as one who is unable or unwilling to return to his country of nationality or, if he has no nationality, the country in which he last habitually resided, because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion; or any person within his country of nationality, or in the case of someone with no nationality within the country in which he is habitually residing, who is persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion under such special circumstances as specified by the President after consultation with Congress. The definition specifically excludes any alien who participated in any way in the persecution of others.

Under normal immigration procedures established by the legislation, through FY82 up to 50,000 refugees per fiscal year may be admitted to the United States. A number in excess of 50,000 may be admitted if, prior to the beginning of the fiscal year, the President determines, after appropriate consultation, that an excess is warranted by humanitarian concerns or is otherwise in the national interest. Beginning in FY83, the total number of refugees to be admitted is determined by the President, after appropriate consultation. The President also determines, after appropriate consultation, the allocation of refugee admissions among refugee groups during a given fiscal year and is required to report the anticipated number and anticipated allocations to the House and Senate Judiciary Committees prior to the beginning of the fiscal year.

If the President determines, after appropriate consultation, that an emergency refugee situation exists and refugee admissions beyond those established for a given fiscal year are justified by grave humanitarian concerns he may fix a number of additional refugee admissions to be allocated during the succeeding 12-month period or less on an emergency basis among refugees of special humanitarian concern.

For the purposes of the legislation, "appropriate consultation" means discussions in person by Cabinet-level representatives of the President with members of the House and Senate Judiciary Committees, and provision of certain specific information to the committees. This information is to be supplied at least 2 weeks in advance of the discussions. The substance of the consultations regarding "excess" (beyond normal flow if the 50,000 applies or the regular annual number if it does not) and emergency admissions must be printed in the Congressional Record. A hearing must be held on the proposed excess admissions and, if the circumstances permit, on emergency admissions prior to the President's determination of the admissions number, unless public disclosure of the proposals would jeopardize life or safety.

Refugees are admitted on a conditional basis and may have their status adjusted after 1 year in the United States without regard to numerical limitations. Also, refugees admitted into the United States are exempted from the Immigration and Nationality Act's exclusion provisions regarding labor certification, public charges, visas and documentation, literacy and foreign medical graduates. The Attorney General may waive, on an individual basis, some of the other exclusions, except some specified in the bill, in the interest of humanitarianism or to assure family unity.

Title II also requires the Attorney General to establish, not later than June 1, 1980, procedures for asylum. Aliens may be granted asylum if the Attorney General determines that the alien is a refugee under the definition set forth in the legislation. Those aliens granted asylum enter conditionally, are granted the same exemptions from the exclusion provisions as are refugees, and may have their status adjusted after 1 year. The Attorney General may use up to 5,000 of the annual regular refugee admissions to adjust the status of these aliens.

Section 243(h) of the Immigration and Nationality Act is amended by the legislation to make withholding of an alien's deportation mandatory under certain conditions, such as danger of persecution, to bring this provision into accord with the United States' obligations under the United Nations Convention and Protocol Relating to the Status of Refugees.

All regular and emergency refugee admissions are in addition to the worldwide immigration ceiling set forth in the legislation as 280,000 for FY80 and 270,000 thereafter. The seventh preference conditional entry provision is eliminated and the second preference category is alloted 26% of the immigrant visas annually.

The legislation precludes the Attorney General from admitting refugees under his parole authority provided in Section 212(d)(5) of the Immigration and Nationality Act except under limited circumstances. This provision takes effect 60 days from the enactment of the legislation.

Title III statutorily provides for a U.S. Coordinator for Refugee Affairs, a Presidential appointee with the rank of Ambassador at Large, to develop overall U.S. refugee admission and resettlement policy and coordinate U.S. refugee programs.

Title III also amends Title IV of the Immigration and Nationality Act by adding a new Chapter 2 to provide refugee resettlement assistance. The legislation creates an Office of Refugee Resettlement within the Department of Health and Human Services (HHS), headed by a Director who is appointed by the Secretary, to fund and administer domestic resettlement assistance programs. The program for the initial resettlement of refugees through grants to voluntary agencies currently administered by the U.S. Department of State would be transferred to the new Office after FY81 unless the President determines, after a study and report to Congress, that these grants should not be administered by the Office. Then, the President is authorized to designate the appropriate administering agency.

To receive assistance under the legislation, a State must submit a plan to the Director of the Office describing how it will deal with refugee resettlement in certain specific areas set forth in the bill. States must also report annually to the Director on the use of funds provided under the program. A system of monitoring the assistance provided for refugee resettlement is required to be developed by the Secretary of HHS and, as appropriate, the Secretary of State.

Specific assistance authorized by the legislation includes initial resettlement grants and contracts for public or nonprofit private agencies; grants and contracts for services to refugees including those promoting economic self-sufficiency, English language training, and health services; assistance for refugee children including special educational services; child welfare services and maintenance payments for refugee children up to the first 3 years they are in the United States or, if accompanied by an adult, until they are 18 years old; and, 100% reimbursement to States for cash and medical assistance provided refugees for the first 3 years of their residence in the United States. The legislation also authorizes medical assistance to refugees during the first year after their arrival who would not otherwise qualify for such assistance.

The Secretary of HHS, in consultation with the Coordinator, is required to submit annual reports to the House and Senate Judiciary Committees containing certain specific information on refugees and the activities of the Office. The Secretary, in consultation with the Coordinator, also must prepare an analysis of refugee resettlement within 1 year after the enactment of the legislation.

Title III authorizes "such sums as may be necessary" through FY80 for the initial resettlement assistance, cash and medical assistance, and child welfare assistance and services. All other assistance authorized at $200 million through FY82.

The period through Apr. 1, 1981, does not apply to the computation of the 3-year time limit for which assistance may be available for child welfare services and cash and medical assistance.

The phaseout of the Cuban Refugee Program through FY83 is continued under the legislation, and the Indochina Migration and Refugee Assistance Act is repealed. The authorization for the U.S. Emergency Migration and Refugee Assistance Fund is raised from $25 million to $50 million.

Title IV of the legislation authorizes Federal reimbursement to State and local agencies for providing assistance and services to aliens who applied for asylum before Nov. 1, 1979, and who have not received any final judgment on their status.

Introduced in Senate by Senator Kennedy Mar. 13, 1979 on behalf of the Carter Administration; referred to Committee on Judiciary. Favorably reported, amended, July 23, 1979 (S.Rept. 96-256). Passed Senate, amended, Sept. 6, 1979. Introduced in House as H.R. 2816 by Representatives Rodino and Holtzman Mar. 13, 1979 on behalf of the Carter Administration; referred to Committee on Judiciary. Favorably reported, amended, Nov. 9, 1979 (H.Rept. 96-608). S. 643 passed House Dec. 20, 1979, amended, to incorporate the language of H.R. 2816, as amended. Conference report submitted to House Feb. 22, 1980 (H.Rept. 96-781). Conference report submitted to Senate Feb. 25, 1980 (S.Rept. 96-590). Enacted as P.L. 96-212 Mar. 17, 1980.

P.L. 96-374, H.R. 5192

Extends through FY85 authorization for appropriations for programs under the Higher Education Act of 1965. Amendment agreed to by the Senate authorizes Federal impact aid to school districts with refugee children. Amendment to S. 1839 offered by Senator Williams June 23, 1980, and agreed to by Senate. Measure indefinitely postponed in Senate and H.R. 5192 passed in lieu June 24, 1980. Enacted as P.L. 96-374 Oct. 3, 1980.

P.L. 96-422, H.R. 7859

Refugee Education Assistance Act of 1980. Title II authorizes grants to school districts that enroll Cuban and Haitian refugee children to provide basic education for these students. Title III authorizes grants to State educational agencies to provide additional assistance to school districts with substantial increases in Cuban, Haitian and Indochinese refugee enrollments. Title IV authorizes grants to State educational agencies for operating adult education programs for Cuban and Haitian refugees. Titles II and III are authorized appropriations for FY81, FY82 and FY83. Title IV is authorized appropriations for FY82 and 83. An amendment agreed to by the Senate adds a title V to the legislation authorizing the same types of Federal assistance for Cuban/Haitian entrants as is available for refugees under title IV of the Immigration and Nationality Act. Introduced July 29, 1980; referred to Committee on Education and Labor. Favorably reported, amended, July 30, 1980 (H.Rept. 96-1218). Passed House, amended, Aug. 18, 1980; referred to Senate Committee on Labor and Human Resources. Favorably reported, amended, Sept. 23, 1980. Passed Senate Sept. 25, 1980. Enacted as P.L. 96-422 Oct. 10, 1980.

Moore, Charlotte
IB80063

INFORMATION, COMMUNICATIONS AND PRIVACY

MLC-078

THE COMMUNICATIONS ACT OF 1934

...various proposals considered...

The revision of the Communications Act of 1934 -- the legislation that gives the Federal Communications Commission (FCC) the authority to regulate the communications industry -- has been a subject of significant congressional concern since the 94th Congress. Due to the complexity of the issues facing telecommunications reform and conflict between the numerous available options, a number of legislative alternatives were proposed in both the 95th and 96th Congresses. It was not until the 96th Congress that both the House and Senate Communications Subcommittees introduced significant legislative proposals (S. 611, S. 622, H.R. 3333) to telecommunications reform. All three initial legislative proposals contained extensive provisions dealing with the deregulation of both the common carrier and broadcast industries. However, due to the widespread differences on broadcast issues between and among subcommittee members in both the House and Senate, and the incorporation of extensive information gathered during lengthy hearings, major revisions in all three pieces of legislation occurred. Both the House and Senate introduced more limited legislation (H.R. 6121, S. 2827) which still significantly modified present communications law. The House proposal, which solely addressed common carrier issues, passed the full Commerce Committee, also reviewed the legislation, but due to their concern over antitrust implications, reported it "adversely without prejudice." As a result of this action, the House legislation did not receive further consideration. The Senate legislation, which addressed both common carrier and broadcast issues, was introduced in June 1980 but never received further action.

LEGISLATION

H.R. 6121 (Van Deerlin)

Revises the regulation of telecommunications activities under the Communications Act of 1934. Establishes a system of intraexchange access fees for the use of intraexchange telecommunications services by intraexchange carriers. Establishes a National Telecommunications Pool in which the intraexchange access fees are to be deposited and disbursed in accordance with the purposes of the Act by the transitional joint board established by this Act. Introduced Dec. 13, 1979.

Gilroy, Angele

MLC-079

PAPERWORK AND RECORDS MANAGEMENT

...new law enacted...

On Dec. 11, 1980, President Carter signed H.R. 6410, the Paperwork Reduction Act of 1980, into law (P.L. 96-511). The law is intended to reduce the burden of Government reporting requirements on individuals and organizations. The new statute creates an Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB), which will have specific authority for Federal information policies and oversight.

The legislation is the result of congressional concern over the alleged inefficiencies in current Federal information practices that, some observers argue, have reduced the effectiveness of the Federal Government and required individuals and the small business community to bear the greatest part of the burden in terms of time and money required to fill out Federal forms and keep required records.

OMB estimates that the Federal Government has approximately 5,000 reporting requirements in use that impose 786 million hours of reporting burden on the public. Nearly 73% of all Federal reporting is associated with the assessment and collection of Federal taxes. Regulatory and financial reporting services comprise 9%; program evaluation and research reporting add another 4%; and general statistical reports make up the final 1%. The number of reports, however, does not reflect the number of people affected or how they must report. OMB estimates that business firms receive 39% of the reports and individual citizens, 29%; State and local governments, 15%; farms, 4% of the reports; and the remaining 13% fall into the "other" category.

Under the Federal Reports Act of 1942 (44 U.S.C. 3501), as amended, OMB was granted responsibility for coordinating and minimizing duplication of the information collecting services of Federal agencies not exempted by the law. The 1973 amendment to the Act (P.L. 93-153, sec. 409) gave the General Accounting Office (GAO) authority to review the proposed reports of the independent regulatory agencies.

H.R. 6410 was introduced on Feb. 5, 1980, to better define OMB's oversight responsibilities of reporting requirements by Federal agencies and the independent regulatory agencies. Following extensive hearings, the House Committee on Government Operations reported H.R. 6410 on Mar. 4, 1980. The House originally approved the measure of Mar. 24, 1980, by a vote of 328-13. However, the Senate Governmental Affairs Committee made a number of substantial amendments to the House bill. The first amendment set a goal of reducing the paperwork burden by 25% over the next 3 years. The second placed additional statutory responsibilities upon the Office of Information and Regulatory Affairs being established by the legislation. The third amendment required Federal agencies to submit all proposed regulations containing paperwork requirements to OMB for review and formal comment. The fourth further restricted the bill's applicability to the Department of Defense, which felt that the original House version granted the General Services Administration (GSA) excessive authority in reviewing computer purchases by Federal agencies. The amended version was passed by the Senate on Nov. 19, 1980, and the House approved by voice vote the Senate amendments on Dec. 1, 1980. The Paperwork Reduction Act of 1980 was signed into law on Dec. 11, 1980.

LEGISLATION

P.L. 96-511, H.R. 6410

Paperwork Reduction Act of 1980. Amends title 44 to reduce paperwork and enhance the economy and efficiency of the Federal Government and the private sector. Establishes within OMB an Office of Information and Regulatory Affairs with the responsibility for overall direction of Federal information policy, statistical activity, records management, automatic data processing, and clearance of new paperwork requirements. The Director of OMB is to review the paperwork requirements of existing laws and to recommend legislation to reduce paperwork. Rewrites the original Federal Reports Act to strengthen the clearance function of OMB and eliminates all agency exemptions except for the Federal Election Commission. Establishes a Federal Information Locator System to identify duplication in Federal agencies' reporting and recordkeeping requirement, and to help agencies locate existing information. Introduced Feb. 5, 1980; referred to House Committee on Government Operations. Reported to House, with amendment (H.Rept. 96-835), Mar. 19, 1980. Passed by House, amended, Mar. 24, 1980. Passed Senate, with amendments, Nov. 19, 1980. House approved by voice vote the Senate amendments Dec. 1, 1980. Enacted as P.L. 96-511 Dec. 11, 1980.

Smith, Stephanie
IB75018

MLC-080

PRIVACY: CONCEPTS AND PROBLEMS

...intrusive data collection...

The discovery of actual abuses of personal privacy and warnings of potential threats caused by increasingly sophisticated technologies have recently made Americans aware of the need to take action to protect individuals' personal privacy. While courts have defined privacy in terms of freedom of association and marital and other fundamental rights, Congress and the executive branch have been primarily concerned with informational privacy. This concept involves both a right to be let alone and a right to control information about oneself. Concerns about intrusive governmental data collection led to enactment of the Privacy Act of 1974, which regulates the collection, use, and disclosure of personally identifiable information contained in records maintained by the Federal Government. The Act is based on fair information practice principles that are guidelines for balancing the legitimate need of Government to have information, and the need of citizens to control that information.

Congress created the Privacy Protection Study Commission (PPSC) to study the feasibility and desirability of extending the Privacy Act's principles to records maintained in the private sector. In 1977, the PPSC reported that these principles should be applied and suggested a program in which voluntary compliance, statutory creation of rights and responsibilities, and creation of ongoing governmental oversight mechanisms would all be used. The goals of this program were to minimize intrusiveness in the collection of personal information, maximize fairness in the use of that information, and create an expectation of confidentiality in the disclosure of the information. The PPSC reported that some information practices, such as the maintenance of private industry personnel records, were best governed for the most part by voluntary compliance. Other information-related relationships, such as the insurance industry's third party record keeping, would best be governed by Federal statute, both to provide uniform compliance and to provide legal remedies for any violations.

Following publication of the PPSC's report and recommendations, several Members of Congress introduced legislation to implement parts of the program; these bills joined more than 90 other bills already pending in the 95th Congress relating to the protection of personal privacy. The subject matter of these bills included protection of employees from employment-related polygraph testing, extension of law that currently protects student educational records held by educational institutions, and prohibition of unsolicited commercial telephone calls.

The 1978 Financial Privacy Act included a provision which would have required depository institutions to notify all customers of their rights under the Act. After New York's Citibank estimated that compliance with this requirement would cost banks over $900 million, largely due to the cost of locating holders of dormant accounts, the Congress acted quickly to repeal the notification section. President Carter signed that repeal (P.L. 96-3) into law on Mar. 7, 1979.

The recommendations of the Privacy Commission aroused much executive branch interest in the protection of personal privacy. The President's Task Force on Privacy and Information studied the issues, encouraged departmental and agency action in the field, and coordinated a Presidential privacy program that President Carter unveiled on Apr. 2, 1979. This program included several legislative proposals which were introduced by request in the 96th Congress. In his message to the Congress on the privacy program, the President urged Congress to act favorably on legislation to prohibit the use of polygraph testing in many employment situations. He also urged private sector employers to adopt voluntary programs to protect the privacy of their employees.

On Oct. 2, 1979, the Carter Administration announced proposed legislation to protect consumers' private financial records from unauthorized disclosure. The Fair Financial Information Act would protect consumers in their financial relationships with credit card companies, credit and check authorization services, insurance companies, and consumer credit bureaus. The Privacy of Electronic Fund Transfers Act would restrict third party access to consumer information transmitted in electronic fund transfer systems. In each proposal, the consumer would have a legally enforceable expectation of confidentiality, and would be able to sue many financial institutions that disclosed information improperly.

The House and Senate took limited action on privacy proposals in the 96th Congress. In the most significant action, Congress enacted the Privacy Protection Act of 1980 (P.L. 96-440). The measure was passed in response to the *Zurcher v. Stanford Daily* case, in which the Supreme Court authorized the use of warrants to search newsrooms even when the organizations or persons searched are not themselves suspected of a crime. The new law greatly limits the situations in which law enforcement officials can obtain warrants to search newsrooms and other locations where First Amendment activities are conducted. The Attorney General was directed to develop guidelines for limiting the use of warrants to search the premises of other individuals who are not suspected of a crime. Legislation to protect the confidentiality of medical records (H.R. 5935) was defeated by the House, and reported to but not voted on by the Senate. Both Houses held hearings on legislation to protect the privacy of personal information held by insurance companies. The Senate Judiciary Committee considered but dit not complete the hearing process on a proposal to prohibit the use of polygraph testing in private employment. Committees in both Houses held hearings on the Fair Financial Information Practices Act (S. 1928 and H.R. 5559), which would have protected credit, banking, and insurance records. In each of these areas, committee members and staff frequently referred to the language and intent of the Privacy Commission recommendations during consideration of bills and amendments.

The 96th Congress also considered legislation that would have made available personal records to more individuals or groups than now have access to such information. In most cases, the focus of such legislation was to allow Federal agencies and other parties to use otherwise confidential information to verify income, prevent fraud, and collect debts. Examples of this type of legislation included P.L. 96-153 (Dec. 26, 1979) relating to verification of income data for Federal housing programs; H.R. 5288 (Hefner) and S. 870 (Cranston), releasing veterans' names and addresses to consumer credit agencies under certain conditions; and S. 2402 and 2403 (Nunn), relaxing the terms of the confidentiality and third party summons sections of the Internal Revenue Code for certain Government investigations, especially concerning illegal narcotics profits.

LEGISLATION

P.L. 96-3, S. 37

Repeals Section 1104(d) of the Right to Financial Privacy Act of 1978. Introduced Jan. 15, 1979; referred to Committee on Banking, Housing, and Urban Affairs. Reported out of committee (S.Rept. 96-5) and passed by Senate Feb. 9, 1979. House Banking, Finance, and Urban Affairs Committee favorably reported bill on Feb. 21, 19; passed House Feb. 27, 1979. Signed into law (P.L. 96-3) Mar. 7, 1979.

P.L. 96-153, H.R. 3875

Housing and Community Development Act of 1979. Amends the Housing Act to require the Secretary of Housing and Urban Development to establish procedures to verify income data submitted by potential recipients of Federal assistance. Passed House, amended, June 7, 1979. Passed Senate, amended, July 13, 1979. Conference report agreed to by Senate Dec. 18, 1979; by House Dec. 19, 1979. Signed into law (P.L. 96-153) Dec. 21, 1979.

P.L. 96-433, H.R. 7939

Provides that the Securities and Exchange Commission (SEC) shall be subject to the Right to Financial Privacy Act of 1978, except as provided in the Securities Exchange Act of 1938. The SEC received a 2-year exemption from the terms of the Right to Financial Privacy Act of 1978; this exemption is due to expire in November 1980. Subjects the SEC to most of the provisions of that Act, but would allow the SEC to delay in giving notice to the customer of a subpoena for records in several specified situations. Introduced Aug. 18, 1980; referred jointly to Committees on Banking, Finance, and Urban Affairs, and on Interstate and Foreign Commerce. Reported by Committee on Interstate and Foreign Commerce (H.Rept. 96-1321, Part 1) Sept. 16, 1980; passed by House Sept. 23, 1980; passed by Senate Sept. 25, 1980. Signed into law (P.L. 96-433) Oct. 10, 1980.

P.L. 96-440, S. 1570

Privacy Protection Act of 1980. Limits searches of newsrooms and other locations in which First Amendment activities are conducted if the person or organization is not suspected of criminal activity. Passed Senate Sept. 24, 1980; passed House Oct. 1, 1980. Signed into law (P.L. 96-440) Oct. 13, 1980.

H.R. 3486 (Kastenmeier et al.)/S. 855 (Bayh)

First Amendment Privacy Protection Act. Incorporates Administration recommendations to restrict police searches for documentary materials held by the press and by others involved in the dissemination of information to the public. It would generally prohibit the search for "work product" -- that is, note or interview files or films. H.R. 3486 introduced in House Apr. 5, 1979; referred to Committee on the Judiciary. Hearings held Apr. 25, May 24, 25, 31, June 1, 1979. Reported Apr. 17, 1980. As reported, H.R. 3486 would protect news organizations and private individuals from surprise searches by Federal law officers, but would protect only news organizations from searches by State and local law officials. S. 855 introduced Apr. 2, 1979; referred to Committee on the Judiciary. The Committee considered S. 855 and other proposals together, and redrafted them into S. 1790, which was approved by the Committee in June and by the full Senate in August.

H.R. 4155 (Simon)

Disclosure of mailing addresses of individuals who have defaulted on certain student loans. Amends the Internal Revenue Code to allow disclosure of addresses of persons who defaulted on loans made under the Migration and Refugee Assistance Act of 1962 or under the Guaranteed Student Loan Program. The addresses would be disclosed only for the purpose of locating the taxpayer to collect the loan. Introduced May 21, 1979; referred to Committee on Ways and Means. Hearings held Mar. 24, 1980; reported favorably May 21, 1980 (H.Rept. 96-1044); passed House June 17, 1980. Reported by Senate Committee on Finance (S.Rept. 96-1039) Nov. 25, 1980.

H.R. 5288 (Hefner)

Veterans Rehabilitation and Education Amendments of 1979. Title IV would allow the Veterans Administration to release information to a consumer credit agency concerning veterans benefits debts. Would remove such disclosure from the coverage of the Privacy Act of 1974, but impose other conditions on disclosure. Introduced Sept. 14, 1979; referred to Committee on Veterans Affairs. Reported favorably Oct. 4, 1979 (H.R. 96-498); passed House Oct. 16, 1979; passed Senate, amended, Jan. 24, 1980.

H.R. 5935 (Preyer et al.)

Federal Privacy of Medical Information Act. Follows the outline of H.R. 2979, and adds elements both from legislation proposed by the Administration and that introduced in the Senate. Representative Preyer attributed many of the changes from H.R. 2979 to comments and testimony received by the Subcommittee on Government Information and Individual Rights. Introduced Nov. 16, 1979; referred jointly to Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means. Reported by Committee on Government Operations (H.Rept. 96-832, Part 1) Mar. 19, 1980. Subcommittee on Health and the Environment of House Interstate and Foreign Commerce Committee met to consider and markup the legislation June 11 and 17, 1980. Reported by Committee on Interstate and Foreign Commerce (H.Rept. 96-832, Part 2) July 25, 1980. Subcommittee on Health of House Ways and Means Committee held hearings Apr. 17, 1980. Called up by House under suspension of the rules; defeated by House Dec. 1, 1980, by vote of 259-97.

S. 1790 (Bayh et al.)

Privacy Protection Act of 1980. Protects newspersons from search and seizure of documentary evidence and requires the Attorney General to issue guidelines outlining Federal procedures to be used when evidence is in the possession of nonjournalists who are not suspected of committing a crime. The bill is a response to the 1978 *Zurcher* v. *Stanford Daily* case, in which the Supreme Court allowed police to use a search warrant to conduct a surprise search of the offices of a newspaper, and seize notes and film coverage of a demonstration at which several persons were arrested. Introduced as a substitute for other proposals in this area Sept. 21, 1979; referred to the Committee on the Judiciary, which held several days of hearings on the issue both before and after the introduction of this bill; approved by the Committee in June; reported favorably with amendment July 28, 1980 (S.Rept. 96-874); passed by the Senate by voice vote Aug. 4, 1980. [Similar bill: H.R. 3486]

H.J.Res. 637 (Whitten)

Continuing Appropriations for FY81. As reported by House Committee on Appropriations (H.Rept. 96-1484), committee amendment beginning at page 26, line 22, through parge 27, line 4 would have allowed the Internal Revenue Service to obtain court approved disclosure of tax payer or return information in connection with a suspected violation of Federal criminal law. The amendment was introduced on the floor and was rejected by the Senate Dec. 10, 1980.

Collins, Sarah P.
IB74123

LABOR

MLC-081

THE DAVIS-BACON ACT

...much debate, but no new enactments...

The Davis-Bacon Act requires that construction contracts entered into by the Federal Government specify minimum wages to be paid the various classes of laborers and mechanics working on the contract. "Minimum wages" are defined by the Act as those determined by the U.S. Secretary of Labor to be prevailing in the locality of the project for similar occupations on similar construction work. The Act covers direct federal construction, alteration, or repair of public buildings or public works, including painting and decorating, where the contract is more than $2,000, and applies to all agencies of the federal government and the District of Columbia that directly make construction contracts. In addition, the Davis-Bacon "principle" of requiring payment of local prevailing wage rates has been written into more than 50 other statutes at the Federal level. Further, some States have enacted "little Davis-Bacon" acts within their respective jurisdiction. The Act covers not only direct federally purchased construction work but also federally assisted construction.

The Davis-Bacon principle has engendered considerable controversy through the years, being attacked by some construction employer groups and generally defended by trade unions. Opponents argue, inter alia, that the Act is inflationary. With the current concern about control of inflation, attention has focused upon the Davis-Bacon Act and similar legislation. Opponents of the Act, many of whom have opposed the Davis-Bacon concept for diverse reasons through many years, are now seeking repeal or significant modification of the Act as an anti-inflation measure as well. Defenders of the Act argue that (a) it prevents cutthroat competition from "fly-by-night" firms that undercut local wage conditions, (b) promotes fair competition between contractors, and (c) fosters decent labor conditions within the industry.

In the 96th Congress, legislation was introduced (a) to repeal the Davis-Bacon Act totally, (b) to modify certain provisions of the Act to make it more acceptable to employers engaged in construction work covered by the Act, and (c) to eliminate the Davis-Bacon provisions from the several Federal statutes into which they have been incorporated. Amendments or program legislation that would delete Davis-Bacon coverage have been considered on the floor in each House and in a variety of committees. Specific hearings on the administration and impact of the Davis-Bacon Act, in the 96th Congress, have been conducted by at least three committees: the Senate Banking Committee, Subcommittee on Housing and Urban Affairs; the House Committee on Education and Labor, Subcommittee on Labor Standards; and the Senate Committee on Labor and Human Resources.

Successful floor action, designed to amend the Davis-Bacon Act, has taken place only in the Senate where a rider to the Military Construction Authorization of 1980 (S. 1319) provided for an amendment of the Davis-Bacon Act, per se.

On June 6, 1979, the Senate Armed Services Committee voted 11 to 4 to exempt $1.4 billion worth of military construction from Davis-Bacon coverage. On July 12, 1979, the measure came to the Senate floor for debate at which time the Davis-Bacon exemption proposal was referred to the Senate Committee on Labor and Human Resources for consideration but with instructions that the legislation be reported to the full Senate no later than July 25th. On July 17 and 19, 1979, the Committee on Labor and Human Resources conducted hearings on the Act. Subsequently, the Committee voted 12 to 3 to recommend to the full Senate that the Davis Bacon provisions of the military construction legislation remain -- that is, that the Davis-Bacon coverage for such construction not be deleted but, rather, remain in effect. In keeping with the Committee's recommendation, reported on July 26, Senator Harrison Williams urged that the full Senate reject the language reported by the Armed Services Committee.

During floor debate on S. 1319, while the exemption proposal and the Labor and Human Resources Committee's recommendation were under consideration, Senator J. James Exon proposed an amendment that would have retained Davis-Bacon coverage but which would have increased the dollar volume threshold required to activate the coverage under the Act from the current figure of $2,000 to $50,000. Thus, Davis-Bacon protections would apply only to projects in excess of $50,000. At that juncture, Senator Melcher proposed a compromise which was, ultimately, accepted by the Senate. The Melcher amendment provided that construction projects of a dollar cost of less than $10,000 be exempted from coverage under the Act except (a) that the $2,000 threshold would remain for repair, etc., of existing structures, whether buildings or public works, and (b) that the $2,000 threshold would remain where a contract was for a part of a construction project in excess of $10,000. By a vote of 68 yeas to 28 nays, the Senate accepted the Melcher amendment. Then, on a subsequent vote of 92 yeas to 3 nays, the Senate agreed to retain Davis-Bacon protections in the military construction authorization legislation. Thus, subject to House concurrence, the Davis-Bacon Act, per se, was amended through a rider to the military construction authorization bill.

When the House and Senate conferees met on S. 1319 (the Military Construction Authorization Act of 1980), they agreed to strike the Exon/Melcher amendment, thus restoring the full strength of the Davis-Bacon Act with the dollar volume trigger. On Nov. 9, 1979, the Senate, by a voice vote and without debate, accepted the conference report. This final action was regarded as a victory for organized labor and for supporters of the Davis-Bacon prevailing wage concept.

In addition to the various approaches to revision (or repeal) of the Davis-Bacon Act, noted above, Congressman Robin Beard (Tenn.) introduced H.Res. 729, a resolution affirming the sense of the Congress that the President of the United States should declare that a "national economic emergency" exists and, as provided in the present statute, suspend the Davis-Bacon Act. No action was taken on the Beard proposal.

Whittaker, William George; Bolle, Mary Jane
IB79069

MINE SAFETY AND HEALTH

...sand, stone, gravel miners concerned...

Training provisions in the Mine Safety and Health Act of 1977 (P.L. 95-164, sec. 115) have caused considerable concern on the part of owners and operators of small sand, gravel, and crushed stone mines. The provisions call for 40 hours (5 days) of training for all new underground miners and 24 hours (3 days) of training for all surface miners, in addition to 8 hours (1 day) of refresher training each year. Regulations provide that operators may propose that up to 16 hours of the surface miner training be given after assignment to work duties, with such training to be completed within 60 days after initial employment.

Before issuing the regulations on Oct. 13, 1978 interpreting this provision of the Act, the Mine Safety and Health Administration conducted an analysis of the economic consequences of mandatory safety and health training standards. The study indicated that the per-worker cost of training would be about $140 per miner, whether he be a surface or an undergound miner, and about $140 per miner for the one day of refresher training required annually.

On the other hand, some operators have claimed that training would cost considerably more than the Department of Labor estimates, and that per-worker cost of training would prohibit the hiring of summer help in addition to increasing the cost of sand, gravel, and crushed stone substantially.

Other provisions of the new Mine Safety and Health Act led to additional mine operator complaints. Under the old Metal and Nonmetal Mine Safety Act of 1966, the predecessor law for sand, gravel, and crushed stone as well as other types of mining operations, underground mines were required to be inspected once a year and surface mines were not required to be inspected at all. Under the new law, underground mines are required to be inspected four times per year and surface mines twice a year. (Sand, gravel, and crushed stone mines are primarily surface operations.) In addition, under the new law citations and penalties are mandatory. Under the old Metal and Nonmetal Act they were not.

As a result of operator complaints about these and other provisions of the new law, at least 10 bills were introduced during the 96th Congress to exempt surface sand, gravel, and stone mining operations from the Mine Safety and Health Act of 1977. Once exempted they would fall under the jurisdiction of the Occupational Safety and Health Act. And, under OSHA the inspection rate for these mines is about once every fifty years because of the small ratio of inspectors to businesses.

The average size of a sand, gravel, or stone operation is about 10 workers. Under the 1979 HEW-Labor Appropriations Act businesses with 10 or fewer employees that have participated in an onsite consultation program and that are making a good faith effort to eliminate hazards cited are exempt from dollar penalties for the violations cited. Therefore, if sand, gravel, and stone mines were to be eliminated from the Mine Safety and Health Act, those with 10 or fewer employees would also qualify for exemption from penalties under OSHA by participating in the free onsite consultation program.

On Mar. 20 and 21, 1979, the Health and Safety Subcommittee of the House Education and Labor Committee began hearings on legislation to exempt sand, gravel, and stone operators from the Mine Safety and Health Act. On May 4, 1979, the Senate Human Resources Committee held oversight hearings on similar legislation. On July 31, 1979, the House-Senate HEW-Labor Appropriations Conference Committee adopted a compromise provision exempting shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone operations from miner training requirements under the mine safety and health Act. On Nov. 20, 1979 this provision was enacted as part of Public Law 96-123.

LEGISLATION

P.L. 96-123
See discussion above.

Bolle, Mary Jane

MLC-083

MINIMUM WAGE

...hearings held -- nothing reported...

The Fair Labor Standards Act of 1938 (FLSA) -- the basic Federal statute dealing with minimum wages, overtime pay requirements, equal pay for equal work, child labor, and related topics applicable to workers engaged in interstate commerce -- was intended to set labor standards that would eliminate "labor conditions detrimental to the maintenance of minimum standards of living necessary for the health, efficiency and general well-being of workers." The FLSA does not cover all workers; various segments of the workforce are specifically exempted. Further, historically and under current law, the field of concern for wages and hours and related subject areas (labor standards) is divided between Federal and State authorities, each jurisdiction complementing the other, the higher standard (that more nearly favorable to the worker) generally prevailing. The FLSA has under-gone major revision, as it concerns the minimum wage level, on six occasions: 1949, 1955, 1961, 1966, 1974, and 1977. The 1977 FLSA Amendments set a wage floor that will be implemented in steps as follows: $2.65 per hour commencing on Jan. 1, 1978; $2.90 per hour after Jan. 1, 1979; $3.10 per hour after Jan. 1, 1980; and $3.35 per hour after Jan. 1, 1981, and continuing at that level for covered workers until the Congress further amends the Act.

In the wake of the 1977 FLSA Amendments, and continuing into the 96th Congress, interest in the Fair Labor Standards Act has centered upon the following issues: *First.* Are the minimum wage increases, mandated in steps by the 1977 Amendments, inflationary and, if so, should the remaining step increases be deferred? *Second.* The 1977 FLSA Amendments reduced, in steps, the amount of tip income, received by employees, which employers could count toward their (the employers') Federal minimum wage obligation. In the name of fighting inflation, should the remaining reduction in the tip credit allowance be deferred? *Third.* Would the youth unemployment situation be ameliorated by the creation of a general youth/general sub-minimum wage under the FLSA? *Fourth.* Has the time come to consider shortening the hours of work per day (or per week, per year, etc.) both to provide greater opportunities for leisure and as a means for fighting unemployment? *Fifth.* Should the equal pay provisions of the FLSA be strengthened to protect, further, the options of women who work? *Sixth.* In the face of global competition for markets, runaway industries, multi-national production of goods by frontier straddling corporations, etc., should the Congress consider methods for the establishment of global standards for wages and hours and conditions of work?

Many bills, proposing amendments to the Fair Labor Standards Act, were introduced during the 96th Congress. Although neither House enacted legislation dealing with the FLSA, the House Subcommittee on Labor Standards did conduct hearings on H.R. 1784 (Conyers), a bill that would have provided for a 35-hour workweek prior to the payment of overtime and for doubletime pay for all work in excess of 35 hours in a single week. Further, the Conyers proposal would have made all overtime work voluntary on the part of the employee. In addition, oversight hearings were conducted by the Subcommittee on Section 14(c) of the FLSA, dealing with sheltered workshops. Finally, the Subcommittee held hearings on a series of bills dealing with the employment of child workers in agricultural hand harvest labor. None of the legislation, considered, was reported.

Whittaker, William G.

MLC-084

OCCUPATIONAL SAFETY AND HEALTH

...still no amendment...

Despite constant attacks by businessmen, Congressmen, and organized labor, and despite the regular introduction of 100 or more bills each Congress to limit OSHA's authority, the Occupational Safety and Health Act of 1970 has never been amended. Various exemptions apply to the law, but all are the result of amendments to annual HEW-Labor Appropriations Acts, rather than the basic authorizing legislation.

S. 2153, however, would have changed all that. It would have embodied a permanent amendment to the OSH Act itself that would exempt on a year-to-year basis an estimated 90% of all businesses and 67% of all workers from OSHA general schedule safety inspections.

In authoring the bill, Senator Schweiker, ranking minority member of the Senate Labor and Human Resources Committee, headed a 5-Senator bi-partisan coalition of pro-OSHA and anti-OSHA leaders, including 3 other members of the Senate Labor Committee--Senators Williams (Chairman), Cranston, and Hatch. Senator Church, a fifth sponsor, not on the Committee, led attempts to amend OSHA before.

Another Labor Committee Member, Senator Nelson, withdrew his name shortly after the bill was introduced, concluding after some study that the bill would not achieve the goals he had originally envisioned, and that the reliability of the workers' compensation data upon which exemptions were based "are seriously challenged as inadequate."

Senator Schweiker's stated reason for introducing S. 2153 is to redirect OSHA's efforts. He believed that after 9 years, OSHA shows little progress in reducing injuries, and has become "probably the most despised Federal agency in existence." He believed that Congress' original mistake was in casting the Government in "a policeman's role of crime and punishment" for 5 million U.S. businesses. He stated that a more efficient utilization for OSHA's scarce resources is to target high-hazard *businesses* (as a supplement to OSHA's high hazard *industry* targeting) and to encourage employer-employee cooperative groups to eliminate hazards in the majority of businesses in this country.

While "anti-OSHA" Senators indicated they were backing S. 2153 as a means of curbing OSHA's powers, "pro-OSHA" Senators were sponsoring it purportedly to "rescue" OSHA from a supposedly worse threat lurking in the anti-regulatory sentiment arising in Congress. This fervor was evidenced by the increasingly restrictive nature of amendments successfully tacked onto annual HEW-Labor appropriations bills.

A number of organized labor groups publicly called upon the Democratic sponsors of S. 2153 to disavow their support of the bill. They didn't "buy" Schweiker's argument that he was looking for a way to save OSHA from further "gutting" by Congress. Rather, they felt that S. 2153 would remove so much of OSHA's authority, that there would be nothing left for OSHA's "real enemies" to attack.

Senator Williams indicated that in holding hearings on the bill, he was not wedded to any particular approach to examining possible OSHA improvements. He did, however, claim to believe in the need for improvement in targeting limited OSHA resources to hazardous workplaces. S. 2153, he explained, gave him opportunity as a Committee chairman, to explore alternative means of OSHA enforcement in the context of legislation with specific exemption authority.

o The FY81 HEW-Labor House Appropriation bill, passed Aug. 27, 1980, would exempt from OSHA general schedule safety inspections in a manner distantly related to the Schweiker amendment, all employers of 10 or fewer workers included in standard industrial classification code categories with lost workday case rates that are less than the national average. Because the Senate failed to pass the FY81 appropriations bill, and Federal agencies are funded through June 5, 1981, under a continuing resolution, the House-passed amendments died with the bill at the end of the 96th Congress.

LEGISLATION

S. 2153 (Schweiker)

Exempts from general schedule safety inspections for each coming year, businesses of all sizes which had during the previous year no fatalities and an injury rate equivalent to not more than 2-3 lost workdays per 100 full-time workers.

Under no circumstances would businesses be exempt from health inspections or accident inspections. Nor would they qualify for exemption from a complaint inspection unless employers gave the Secretary of Labor "reasonable assurances" that the situation leading to a written complaint was not hazardous, or that the hazards had been removed.

There are two ways a business can qualify for exemption under S. 2153. First, the employer is exempt if his name does not appear on an annual State listing (tied in with workers' compensation records) of businesses whose workers sustained at least one injury involving two or more lost workdays. Otherwise, if the employer's name appears on the list, or if the State has no such list compative with Federal requirements, the employer may qualify by filing an affidavit with the Secretary of Labor indicating that he meets the requirements for exemption.

Whether or not a business is exempt from general schedule safety inspections, it can qualify for penalty elimination or reduction in cases of safety violations, under S. 2143. The business is automatically exempt from penalties for serious and non-serious violations if it has 10 or fewer workers. If the business has more than 10 workers, it can qualify for a reduction in the maximum penalty for a serious violation, from $1,000 to $700, and from a reduction in the statutory maximum penalty for a non-serious violation from $1,000 down to $300, if it maintains a worker-employer safety committee and participates in a regular qualifying program of onsite consultation. Introduced Dec. 19, 1979; referred to Committee on Labor and Human Resources. The bill died in committee.

Bolle, Mary Jane
IB75055

MLC-085

PLANT CLOSINGS AND RELOCATIONS

...bills die in committee...

Unlike many foreign countries, such as the United Kingdom, France, Germany, and the Netherlands, the United States places virtually no restraints on industrial plants closing down operations in one location and opening up in another location. Most frequently the relocation has been from an outdated manufacturing plant in a large urban area in the Northeast or Great Lakes region with high tax rates, heavy unionization, and high wages to a foreign, or South or Southwestern rural area in a "right to work" State where labor unionization efforts are weaker, where local pay rates are lower, and where local State tax rates are less burdensome. Statistics on the number of plants that relocate or the number of workers who are displaced by plant relocations are not kept nationally.

In 1974 Representative William Ford of Michigan in conjunction with some representatives of the United Auto Workers developed the National Employment Priorities Act to address problems created by what they referred to in the findings and declarations section of the bill as "arbitrary and unnecessary closings and transfers of establishments, caus[ing] irreparable social and economic harm to employees, local communities, and the Nation, and too often receiv[ing] financial support from the United States Government."

In the 93d , 94th, and 95th Congresses, subcommittees of the House Education and Labor Committee held hearings on the Ford bill, known in the 94th and 95th Congresses as H.R. 76. Senate support for the legislation was led by then Senator Mondale.

On July 31, 1979, Representative Ford and Senator Riegle introduced H.R. 5040, and S. 1608 the National Employment Priorities Act of 1979. This bill provided for a Department of Labor-administered system of worker protection against plant closings and relocations for business establishments with more than 50 employees and with an annual gross volume of sales of more than $250,000. It provided for a system of prenotification in cases where a business is closing down or transferring operations to another locality, when the lesser of 100 employees or 15% of all workers at an establishment would become unemployed or would have their salaries reduced to less than 85% of their previous wages. The length of prenotification required to be given employees, the Labor Department, and the local community, depended on the number of employees affected. The maximum was 2 years notice if 500 or more workers would have suffered employment loss. The bill also provided for investigation by the Secretary of Labor of certain situations involving plant closing or transfer, and for the Secretary to prepare a written report with recommendations on the findings.

The bill required the business concern to make payments, for a period of 52 weeks, to each employee who suffered unemployment or reduction in pay below 85% of his average weekly wages prior to the reduction in pay. Such weekly wage maintenance payments should have equaled 85% of the highest rate of pay received at any time in the previous two-year period, or 100% if the employee were participating in a training program. (These payments would have been reduced by amounts received from unemployment compensation and trade readjustment allowances, but should not have exceeded $25,000 for the year.) The employer would also have made payments to the employee benefit plan for the same 52 week period as if the employee had not suffered the employment loss.

The employee would have been given an opportunity to transfer (with payment for reasonable moving expenses) to a similar position in another establishment of the employee at any time during a three-year period from the date of his employment loss.

Federal assistance to employees, in amounts not to exceed $600, would have been made to search for new employment if workers could not reasonably have been expected to find employment in the geographic area in which the old establishment was located. Other types of Federal assistance included loans and loan guarantees to business. Competitive bids for contract with the U.S. Government would have been treated as if such amount were equal to 95% of the amount stated. Loans and loan guarantees were authorized for assistance to local governments affected by plant closings and relocations.

Businesses required to give notice would have been liable to local governments for 85% of the difference between the average tax revenue for which the business was liable over the previous three fiscal years and the amount of liability for the first complete taxable year after a business concern is required to give notice to the extent that the difference is directly related to the change of operations.

Criminal violations generally, for making a false statement of material fact were to have been penalized at the maximum $1,000 and/or one year imprisonment. Criminal penalty for a person who gives notice of closing or transfer and fails to disclose material fact would have been $10,000 and/or 5 years imprisonment. Civil penalties equal to various allowable tax credits and deductions would have been assessed businesses failing to give notice or provide required employee assistance.

On July 31, 1979, Senator Williams introduced a similar bill, S. 1609, the Employee Protection and Community Stabilization Act of 1979. The Williams bill provided for a somewhat similar program of worker protection, with some variations.

It applied to business establishments with 50 or more employees. It provided severance pay (instead of weekly wage maintenance payments), when workers become unemployed or fail to receive 50% of their average weekly wage during the previous 4-month period.

It provided that if an employee had an individual retirement account plan he would receive immediate distribution equal to the balance in the employee's account reduced by the extent to which any portion of the balance attributable to contributions by the business concern was forfeitable. It provided that if the employee was in a defined benefit plan, he would have had the right to elect to take early retirement benefits beginning at age 50 (reduced by the extent to which the employee accrued benefits are forfeitable).

Senator William's bill also provided that an employee would have had rights of transfer to any other establishment of the employer for a period of one year following his own unemployment or reduction in wages, plus relocation allowances that would have been substantially equivalent to and of the same type and kind provided executives and managerial employees of the business concern.

If the district court found that a business concern was required to give notice, that concern would be liable to any affected community in an amount equal to 100% of the difference between the average tax revenue owed to the affected community for the three taxable years prior to closing or transfer, and the first fiscal year after the finding is made to the extent that the difference is directly related to the change of operations.

Otherwise, the two bills were somewhat similar including their provisions for federal assistance and criminal penalties, except that S. 1609 did not provide for penalty for failure to offer an employee transfer opportunity.

LEGISLATION

In the 96th Congress more than 40 separate bills were introduced to address the problems caused by or related to plant closings. Included were proposals to amend the Trade Act of

1974 and to extend authorization for the Public Works and Economic Development Act of 1965, under which a number of assistance programs serving those affected by plant closings are carried out. See discussions above.

Bolle, Mary Jane
IB80068

LAW, CRIME AND JUSTICE

MLC-086

CAPITAL PUNISHMENT

...debate over death sentence continues...

In 1972, in the case of *Furman* v. *Georgia*, 408 U.S. 238, the Supreme Court struck down virtually all then-existing State and Federal capital punishment statutes because the statutes left the determination of whether the death penalty should be imposed to the unguided discretion of the jury or judge, with the result that the penalty was arbitrarily and "freakishly" imposed. However, the Court left open the question of whether capital punishment *per se* violates the constitutional prohibition against cruel and unusual punishment. In response to *Furman*, Congress and 35 State legislatures enacted new laws attempting to avoid constitutional defects by removing the death penalty determination from the unguided discretion of the judge or jury (e.g., the Federal Anti-Hijacking Act, P.L. 93-366).

On July 2, 1976, the Supreme Court issued five opinions dealing comprehensively with the constitutionality of the sentence of death for first-degree murder and with the procedures under which sentence of death can be properly imposed. In the first of the cases, *Gregg* v. *Georgia*, 428 U.S. 153, the Court held that capital punishment for the crime of murder does not *per se* constitute cruel and unusual punishment, and the Court upheld Georgia's death penalty statute, which provides that the jury must find at least one of ten specific "aggravating circumstances" before it can impose the death penalty. Two of the companion cases, *Jurek* v. *Texas*, 428 U.S. 262, and *Proffitt* v. *Florida*, 428 U.S. 242, upheld similar statutes in Texas and Florida. In the remaining two cases, the Court disapproved of statutes making mandatory the imposition of the death penalty for certain homicide offenses (*Roberts* v. *Louisiana*, 428 U.S. 325 and *Woodson* v. *North Carolina*, 428 U.S. 280). The Court pointed out that because death is a punishment different from all others both in kind and degree, a sentencing procedure must provide a means for considering the uniqueness of each defendant and the aggravating and mitigating circumstances of each case. Briefly, what the Supreme Court has approved is a statutory system of "guided discretion" for imposition of the death penalty.

The first execution since 1967 in this country was carried out in Utah on Jan. 17, 1977. As of Oct. 20, 1980, there were 691 inmates under sentence of death. Death penalty opponents are continuing case-by-case challenges of many of these convictions and the constitutionality of various State statutes. Of the 35 State death penalty laws in existence at the time of the *Gregg* decision, many have now been voided by the courts as not conforming to the constitutionally required standards. Several States have passed or are considering legislation that would bring their laws into conformity with the Supreme Court's standards. According to the NAACP Legal Defense Fund, 37 States currently have death penalty statutes on their books for the crime of homicide.

On June 29, 1977, the Court ruled that the death penalty for the crime of rape does constitute cruel and unusual punishment (*Coker* v. *Georgia*, 433 U.S. 584).

Of course, the debate over the desirability and morality of the death sentence as a feature of the criminal sentencing structure continues. In the 96th Congress, legislation was introduced that would have established constitutional procedures for the imposition of the death penalty in Federal criminal cases (S. 114). Other legislation was introduced that would have abolished the death penalty under Federal and State law (H.R. 4419). S. 114 was favorably reported by the full Senate Judiciary Committee on Jan. 17, 1980 (S.Rept. 96-554).

LEGISLATION

S. 114 (DeConcini and Thurmond)

Provides that whenever a defendant is found guilty of or pleads guilty to a Federal offense for which the penalty of death is authorized, a separate sentencing hearing must be held. Requires that after hearing all evidence relevant to the sentence, the jury, or if both sides agree, the court, must return special findings setting forth any aggravating and mitigating factors found to exist. Provides that the burden of establishing the existence of any aggravating factor is on the Government, and must be established beyond a reasonable doubt. Provides that the burden of establishing the existence of any mitigating factor is on the defendant, and must be established by a preponderance of the evidence. Requires any finding of aggravating or mitigating factors to be made by majority vote. If no aggravating factors are found to exist, directs the court to impose an authorized sentence other than death. If one or more aggravating factors are found to exist, directs the jury or court to consider whether the aggravating factors sufficiently outweigh any mitigating factors, or whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, directs the jury, by unanimous vote, or the court to return a finding as to whether a sentence of death is justified. Specifies the following mitigating factors to be considered: (1) the defendant was youthful; (2) the defendant's capacity to appreciate the wrongfulness of his conduct was impaired; (3) the defendant was under unusual and substantial duress; (4) the defendant's participation was relatively minor; (5) the defendant could not reasonably have foreseen that death would result from his conduct. Specifies the following aggravating factors to be considered in cases involving treason or espionage: (1) the defendant has been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized; (2) the defendant knowingly created a grave risk of substantial danger to the national security; (3) the defendant knowingly created a grave risk of death to another person. Specifies the following aggravating factors to be considered in all other cases: (1) the death resulted from the commission or attempted commission of certain specified offenses; (2) the defendant has been convicted of another offense involving the death of a person; (3) the defendant has previously been convicted of two or more offenses involving the infliction of serious bodily injury upon another person; (4) the defendant knowingly created a grave risk of death to another person; (5) the defendant committed the offense in an especially heinous, cruel or depraved manner; (6) the defendant procured the commission of the offense by payment; (7) the defendant committed the offense for the receipt of payment; (8) the defendant committed the offense after substantial planning and premeditation to cause the death of another or commit an act of terrorism; (9) the offense was committed against the President of the United States or other specified Federal officials. Provides that in any case in which death is the sentence, upon appeal by the defendant, the sentence shall be subject to review by the court of appeals; such appeal shall have priority over all other cases. Introduced Jan. 23, 1979; referred to Committee on Judiciary. Favorably reported, as amended, on Jan. 17, 1980 (S.Rept. 96-554).

McClure, Barbara
IB73013

MLC-087

CRIME: COMPENSATION FOR VICTIMS

...27 States have enacted compensation programs...

At least 27 States have enacted programs to compensate victims of crimes of violence. These programs vary widely, however, in the type and adequacy of benefits provided. Legislative efforts at the Federal level have been made since the 92d Congress to establish a Federal victim compensation program and/or to provide assistance to State programs.

Major issues involved include the general propriety, desirability, and feasibility of Federal support for such programs, as well as considerations of cost. Proponents of governmental compensation for crime victims base their arguments on various rationales. One justification is "society's failure to protect." This theory holds that when an individual has been injured by a criminal act, society has failed to carry out its responsibility to protect that person. Became civilized society forbids a person to take the law into his own hands and seek private vengeance, society should compensate the person it has failed to protect. A second rationale is the need to combat the individual citizen's sense of alienation and anger at society and to encourage citizen cooperation with law enforcement agencies. Finally, proponents argue that if there is a Federal interest in helping States to prevent crime, to apprehend, try, and imprison criminals, and to house and facilitate the rehabilitation of prisoners, then there should also be a Federal interest in helping States to assist the victims of those criminals.

Opponents of Federal assistance to State compensation programs argue first that although compensating crime victims can be a legitimate governmental activity, such programs are essentially charitable in nature and not the result of any absolute governmental liability to its citizens. Second, since the Federal Government has no responsibility for the enforcement of a State's criminal laws, the Government therefore has no responsibility for compensating its victims. And third, opponents are concerned about the long-range costs of such a program. No precise estimate is available, but the Congressional Budget Office estimated that the cost to the Federal Government would be $10 million in FY79, and $15 million, $19 million, and $4 million in FY80, 81 and 82, respectively. The Law Enforcement Assistance Administration has issued a report concluding that *total* costs for a national program could range from $144 million to $261 million.

A bill that would have provided Federal funds to State victim compensation programs was passed by both the House and the Senate in the 95th Congress (H.R. 7010), but the legislation died when the House failed to agree to the conference report. Major legislation to reform the Federal criminal code (S. 1437/H.R. 6869) also would have established a program to compensate victims of crime over which Federal jurisdiction exists. S. 1437 was passed by the Senate on Jan. 30, 1978 but not acted upon by the House.

In the 96th Congress, legislation was introduced by Senator Kennedy, then-chairman of the Senate Judiciary Committee, and by Representative Rodino, chairman of the House Judiciary Committee (S. 190/H.R. 1899). Following mark-up of H.R. 1899 by the House Judiciary Subcommittee on Criminal Justice, a clean bill (H.R. 4257) was introduced and favorably reported, amended, by the full Judiciary Committee on Feb. 13, 1980 (H.Rept. 96-753).

S. 190 and H.R. 4257 as reported were substantially similar. Both provided for grants to qualifying State victim compensation programs in an amount equal to 25% of the cost of compensating victims of State offenses and 100% of the cost of compensating victims of Federal offenses. Neither measure provided funds for administrative costs and certain other expenses. The maximum award to any one victim or his dependents that would be federally reimbursable under the Senate bill was $35,000; the maximum reimbursable award under the House bill was $25,000. The Senate bill required that States could not base eligibility for compensation on the financial means of the claimant; the House version had no such requirement. The House bill required States to set up escrow accounts to benefit victims of crime from book royalties and similar profits accruing to criminals; the Senate bill had no such requirement. Authorized appropriations under the Senate bill were $30 million for FY80, $40 million for FY81, and $50 million for FY82. The House bill authorized $15 million for FY80, $25 million for FY81, and $35 million for FY82. The Carter Administration did not support the legislation because of budgetary considerations.

Legislation introduced during the 96th Congress to reform the Federal criminal code (S. 1722) also would have established a program to compensate victims of crime over which Federal jurisdiction exists, and S. 1936/H.R. 5823 (Handgun Crime Control Act) would have provided for Federal grants to State victim compensation programs for compensation paid for personal injury and death resulting from handgun crimes.

LEGISLATION

H.R. 4257 (Rodino et al.)

Victims of Crime Act of 1979. *As reported*, authorizes the Attorney General to make grants, subject to the availability of amounts appropriated, to qualifying State crime victim compensation programs in an amount equal to 100% of the cost of compensating victims of Federal offenses, and 25% of the cost of compensating victims of State offenses. Establishes an Advisory Committee on Victims of Crime composed of nine members to be appointed by the Attorney General, seven of whom must be officials of qualifying State programs. Requires that a State, to be eligible to receive Federal funding, must meet the following 11 criteria: (1) the program must offer compensation for personal injury to victims of "qualifying crimes" (as designated by the States), and compensation for death to the surviving dependents of victims of qualifying crimes; (2) aggrieved claimants must have the right to a hearing with administrative or judicial review; (3) the program must require that claimants cooperate with law enforcement authorities; (4) the State must be subrogated to any claim that the claimant has against the perpetrator of the crime; (5) claimants must not be required to seek welfare benefits unless they were receiving such benefits prior to the occurrence of the crime giving rise to the claim; (6) the program must deny or reduce an award if the claimant is found to have contributed to the death or injury giving rise to the claim; (7) the program must not require that a person be apprehended, prosecuted or convicted of the offense on which a claim is based; (8) State law must require that a restitution obligation be imposed upon criminal wrongdoers in appropriate cases; (9) the State must require that law enforcement authorities take reasonable care to inform victims about the existence of the State program and the procedure for applying for compensation; (10) the State must require that there be assessed upon any person convicted of a qualifying crime a sum of not less than $5 to be paid into the victim compensation fund; and (11) the State must require that any proceeds accruing to an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement or article, relating to such crime must be deposited into an escrow account to be held for such time as is reasonably necessary to perfect the claims of the victims or dependents. Provides that the following expenses are not eligible for Federal funding: (1) administrative expenses (defined to include awards for attorneys' fees); (2) amounts awarded for pain and suffering; (3) amounts awarded for property loss; (4) any amount awarded to a claimant who has received or is entitled to receive compensation from another source; (5) any amount in excess of $200 per week for lost earnings or support; (6) any award to a claimant who filed a claim more than 1 year after the occurrence of the crime, unless good cause is shown; (7) any amount awarded to a claimant who failed to report the crime to law enforcement authorities within 72 hours after the occurrence of the crime, unless good cause is shown; (8) any amount awarded to a single victim, or to the surviving dependents in the aggregate, in excess of $25,000. Requires the Attorney General to report annually to the House and Senate Judiciary Committees on the administration of the legislation. Authorizes appropriations of $15 million for FY80, $25 million for FY81, and $35 million for FY82. Introduced Feb. 8, 1979; referred to Committee on the Judiciary. Subcommittee on Criminal Justice commenced hearings on H.R. 1899 Feb. 28, 1979, and approved a clean bill, H.R. 4257, Apr. 25, 1979. H.R. 4257, amended, reported by full Judiciary Committee Feb. 13, 1980 (H.Rept. 96-753).

S. 190 (Kennedy et al.)

Victims of Crime Act of 1979. Authorizes the Attorney General to make grants, subject to the availability of amounts appropriated, to qualifying State crime victim compensation programs in an amount equal to 100% of the cost of compensating victims of Federal offenses, and 25% of the cost of compensating victims of State offenses. Establishes an Advisory Committee on Victims of Crime composed of nine members to be appointed by the Attorney General, seven of whom must be officials of qualifying State programs. Requires that a State, to be eligible to receive Federal funding, must meet nine criteria: (1) through (7) as in H.R. 4257, above; (8) State law must permit a restitution obligation to be imposed on criminal wrongdoers; and (9) eligibility for compensation must not be based upon the financial means of the claimant. Allows the States until the day after the close of the first regular session of the State legislature that begins after the effective date of the legislation to bring their programs into compliance. Provides that the following expenses are not eligible for Federal funding: (1) through (7) of H.R. 4257, above; (8) any amount to a single victim, or to the surviving dependents in the aggregate, in excess of $35,000; and (9) awards of less than $100, and for loss of less than 5 days earnings or support, except in the case of claimants who are 62 years of age and older. Requires the Attorney General to report annually to the House and Senate Judiciary Committees on the administration of the legislation.

Requires the Attorney General, within 2 years, to survey the States respecting the disposition of profits made by criminal wrongdoers from publicity surrounding their wrongdoing, and to report to Congress on the appropriateness of requiring States to prevent the criminal wrongdoer from enjoying such profits in order to be eligible for funding under this legislation. Authorizes appropriations of $30 million for FY80, $40 million for FY81, and $50 million for FY82. Introduced Jan. 23, 1979; referred to Committee on the Judiciary.

McClure, Barbara
IB74014

MLC-088

CRIME: ISSUES RELATED TO RAPE

...rising incidence of forcible rapes...

According to the FBI's Uniform Crime Reports, during 1979 there was an estimated total of 75,989 forcible rapes: an increase of 35% over the last 5 years. The rising incidence of rape, along with increased attention on social issues affecting women, has led to widespread demands for improvement of treatment for rape victims, changes in victim-related law enforcement techniques, and reform of rape statutes.

The Supreme Court has agreed to rule on the constitutionality of "statutory rape" laws. Under such laws it is a crime for a male to have sexual relations with an underage female, but not for a female to have relations with an underage male. Many States have laws similar to the California law that is being challenged. The Court is expected to rule on the matter sometime in 1981.

Legislation to protect the privacy of rape victims in Federal trials became public law during the 95th Congress (P.L. 95-540). The new law, which amends the Federal Rules of Evidence, limits the circumstances in which evidence about a rape victim's past sexual conduct can be admissible and sets strict procedures for the introduction of such evidence. Major criminal code reform legislation introduced during the 96th Congress (S. 1722/H.R. 6915) provided that special corroboration of a victim's testimony was not required, used sex-neutral language so that sexual assaults against men and women were treated alike, and provided that rape may be committed by one spouse against another. S. 1722 and H.R. 6915 were favorably reported from committee but did not reach the floor. Rape offenses normally are within the jurisdiction of the States, and more than 30 States already have rewritten their laws concerning rape and the prosecution of rape cases, but sponsors of Federal criminal code reform view such legislation as a model for the remaining States to reform their rape laws.

The first major Federal initiative in the area of rape treatment and control was passage of the Health Revenue Sharing and Health Services Act of 1975 (P.L. 94-63), Part D of Title II of which established the National Center for the Prevention and Control of Rape to support research and demonstration projects into the causes, treatment, and control of rape. Legislation was introduced in the 96th Congress by Senator Mathias and Representative Walgren (S. 621/H.R. 3986) to extend the funding available through the Center to include programs providing direct services to rape victims. Hearings on H.R. 3986 were held by the Subcommittee on Health and Environment of the House Interstate and Foreign Commerce Committee on June 25-26, 1979. A somewhat altered version of that bill was added as title VI of H.R. 7299 (Mental Health Systems Act) as reported by the Interstate and Foreign Commerce Committee (H.Rept. 96-977). An amended version of the Mathias bill was added as title VII of S. 1177 (Mental Health Systems Act) as reported by the Senate Committee on Labor and Human Resources (S.Rept. 96-712). S. 1177 was passed by the Senate on July 24, 1980, and by the House (amended to contain the language of H.R. 7299) on Aug. 22, 1980. The Senate agreed to the conference report on (S.Rept. 96-980) on Sept. 24, 1980; the House agreed to the conference report (H.Rept. 96-1367) on Sept. 30, 1980. President Carter signed the legislation into law on Oct. 7, 1980 (P.L. 96-398).

LEGISLATION

P.L. 96-398, S. 1177

Mental Health Systems Act. Title VI authorizes the Secretary of Health and Human Services to make grants to public or nonprofit private entities to assist in meeting up to 90% of the costs of: (1) providing counseling and followup counseling for rape victims and the immediate family of rape victims; (2) providing assistance in securing mental health, social, medical, and legal services for rape victims; and (3) demonstration projects to develop and implement methods of preventing rape and assisting rape victims. Directs the Secretary to establish a grant review panel of individuals who are or have been engaged in the provisions of services to rape victims to make recommendations with respect to the approval of applications for grants and contracts. Provides that the Secretary may obligate up to 7.5% of the funds appropriated for any fiscal year to provide requested technical assistance in the development and submission of applications for a grant or contract to those entities that do not possess the resources or expertise necessary to develop and submit such an application. Provides that no Federal officer or employee or any recipient of a grant shall use or disclose any personally identifiable information obtained in carrying out an activity assisted by such grant. Provides that such information is immune from legal process and may not be admitted as evidence or otherwise used in any civil, criminal, other judicial or administrative proceeding, without the consent of the person furnishing the information. Authorizes appropriations for the grant program of $6 million for FY81, $9 million for FY82, and $12 million for each of FY83 and FY84. Authorizes an appropriation of $6 million for FY81, and $1.5 million for each of FY82 and FY83, for the already existing programs of the National Center for the Prevention and Control of Rape (the conference report notes that the conferees anticipate that this will be the final authorization of the rape research program). S. 1177 introduced May 17, 1979; referred to Committee on Labor and Human Resources. H.R. 7299 introduced May 7, 1980; referred to Committee on Interstate and Foreign Commerce. S. 1177 reported, as amended, May 15, 1980 (S.Rept. 96-712). H.R. 7299 reported, as amended, May 15, 1980 (H.Rept. 96-977). S. 1177 passed Senate, amended, July 24, 1980. S. 1177 passed House, amended to contain language of H.R. 7299, Aug. 22, 1980. Senate agreed to conference report (S.Rept. 96-980) Sept. 24, 1980. House agreed to conference report (H.Rept. 96-1367) Sept. 30, 1980. Enacted Oct. 7, 1980 (P.L. 96-398).

McClure, Barbara
IB76046

MLC-089

CRIME: LEAA, THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

...legislation introduced to reorganize LEAA...

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, which authorized Federal anticrime assistance and research activities administered by the Department of Justice's Law Enforcement Assistance Administration (LEAA) for 11 years, expired at the end of FY79, and the LEAA program operated under a continuing resolution until the passage of the Justice System Improvement Act (P.L. 96-157) on Dec. 27, 1979. President Carter had made a campaign promise in 1976 calling for a serious reexamination of LEAA programs in light of the controversy concerning their effectiveness. Such a review was undertaken by the Attorney General and the President's Reorganization Project over the first 2 years of the Carter Administration. In July 1978, the President outlined his legislative proposal for the future of LEAA in a message to Congress.

The Carter Administration's bill, the Justice System Improvement Act, was introduced during the 95th Congress and reintroduced early in the 96th Congress by the Senate and House Judiciary Committee chairmen, Senator Kennedy and Representative Rodino (S. 241/H.R. 2061). The legislation, as amended in House and Senate action, continues major financial assistance programs for State and local governments to improve their criminal justice systems as well as a national research institute within the Department of Justice, but provides for both a reorganization in the administration of the programs and a restructuring of the authorized activities.

LEGISLATION

P.L. 96-157, S. 241

Justice System Improvement Act. Amends Title I of the Omnibus Crime Control and Safe Streets Act by serving as a substitute for it. Establishes a Law Enforcement Assistance Administration, a National Institute of Justice, and a Bureau of Justice Statistics within the Department of Justice under the general authority of the Attorney General. Creates an Office of Justice Assistance, Research and Statistics to coordinate the activities of these offices as well as to provide certain staff support. Provides assistance for State and local governments to strengthen and improve their systems of criminal justice through formula grants, national priority grants, and discretionary grants. Provides assistance for community and citizen groups to encourage crime prevention efforts through community anticrime grants. Provides for research and demonstration efforts to improve the criminal justice system and related aspects of the civil justice system. Provides for the collection and analysis of statistical information concerning crime, juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system, and for the development of information and statistical systems in these areas. Provides for law enforcement manpower and training, and for a program of academic educational assistance through grants and loans for students in criminal justice. Provides death benefits for families of law enforcement officers killed in the line of duty. Authorizes $750 million per year for each fiscal year 1980 through 1983 for the major assistance activities, education and training provisions, and administration; authorizes $25 million for each of these fiscal years for research activities; and $25 million for each of these fiscal years for statistical programs; authorizes $25 million for each of these fiscal years for the community anticrime program. Such sums as may be necessary are authorized for public safety officers' death benefits. Introduced in the Senate by Senator Kennedy Jan. 29, 1979; referred to Committee on Judiciary. Favorably reported, amended, May 14, 1979 (S.Rept. 96-142). Passed the Senate May 21, 1979. Introduced in the House as H.R. 2061 by Representative Rodino Feb. 8, 1979; referred to Committee on Judiciary. Favorably reported, amended, May 15, 1979 (H.Rept. 96-163). S. 241 passed the House Oct. 12, 1979, amended, to incorporate the language of H.R. 2061. Conference report submitted to the House Nov. 16, 1979 (H.Rept. 96-655). Recommitted to Conference Committee by Senate, Nov. 29, 1979. Conference report submitted to the House Dec. 10, 1979 (H.Rept. 96-695). Senate agreed to conference report Dec. 11, 1979. House agreed to conference report Dec. 13, 1979. Signed into law by President Carter Dec. 27, 1979 (P.L. 96-157).

Moore, Charlotte

MLC-090

CRIME: SENTENCING REFORM

...indeterminate vs. determinate sentencing...

Most States and the Federal Government have systems known as "indefinite" or "indeterminate" sentencing. Under such systems, the judge exercises considerable discretion in setting the outer limits of a convicted defendant's imprisonment (e.g., from 2 to 10 years), and the parole board determines the actual length of an offender's confinement by deciding when he has been rehabilitated and should be released. Once viewed as a major reform designed to individualize the treatment of offenders and to facilitate rehabilitation, indeterminate sentencing has come under attack recently for what is seen as abuses of the broad discretion allowed to judges and parole boards. Critics point out that there are vast disparities in the sentences imposed on similar defendants, that prisons have failed to rehabilitate, that parole boards cannot accurately predict the future conduct of paroled offenders, and that the system has undermined the sentencing functions of deterrence and protection of society.

In recent years, there has been a significant movement to remove as much discretion as possible from the sentencing and paroling processes by replacing indeterminate sentencing with "determinate" or "fixed" sentencing. In general, determinate or fixed sentencing refers to a system in which prison terms are predictable and relatively inflexible. Among the options being discussed are (1) *flat-time sentencing*, in which a single sentence would be prescribed for each offense, which would be served in full with no parole; (2) *presumptive sentencing*, in which a "typical" or "presumptive" sentence would be adopted for each offense along with a list of aggravating and mitigating circumstances that could raise or lower the sentence; (3) *mandatory minimum sentencing*, in which a minimum sentence is set that must be served in its entirety, but the imposition of higher sentences would still be allowed; (4) *sentencing guidelines*, in which a permanent sentencing commission would fashion guidelines for judges to follow in imposing sentence. Two related proposals being discussed are that parole should be abolished and that there should be appellate review of sentences.

Opponents of determinate sentencing argue that it would be too inflexible and that it will add to prison overcrowding. Many prison officials still believe that rehabilitation is possible and that parole and indeterminate sentencing are necessary to motivate offenders to take advantage of rehabilitation programs.

In the 95th Congress, several bills designed to reform the Federal sentencing system were introduced. These included proposals to establish mandatory minimum sentences for certain crimes, to create a Federal system of presumptive sentencing, and to establish a Federal sentencing commission. The Senate Judiciary Subcommittee on Criminal Laws and Procedures held hearings on several of these measures. Particular attention was focused on S. 1437, the proposed Federal criminal code reform legislation, which passed the Senate on Jan. 30, 1978. The Administration endorsed the entire bill and the sentencing provisions in particular.

In the 96th Congress, as in the 95th, several sentencing reform proposals were introduced. Once again, criminal code reform legislation was introduced by Senator Kennedy (S. 1722). The sentencing provisions of this bill were essentially similar, though not identical, to those of S. 1437 of the 95th Congress. The bill would have established a sentencing commission to formulate sentencing guidelines for Federal judges, would have provided for appellate review of sentences outside the guidelines by both defendants and the Government, and would have eliminated early release on parole. A series of hearings on this legislation was held by the full Senate Judiciary Committee. In his testimony to the committee, then-Attorney General Benjamin Civiletti expressed the Carter Administration's approval of the bill, and in particular noted with favor the "bill's complete abolition of our archaic parole system -- an abolition that was strongly urged by former Attorney General Bell on behalf of President Carter." On Jan. 17, 1980, the Judiciary Committee favorably reported S. 1722 (S.Rept. 96-553).

On the House side, the Judiciary Subcommittee on Criminal Justice met throughout the first session of the 96th Congress in a series of over 100 markup sessions to develop its revision of the Federal criminal code. A preliminary bill was introduced by then-Subcommittee Chairman Drinan on Jan. 7, 1980 (H.R. 6233), and the subcommittee's final marked up version was introduced Mar. 25 (H.R. 6915). The full House Judiciary Committee favorably reported the measure on Sept. 25, 1980 (H.Rept. 96-1396). The House bill differed from the Senate bill in that (1) the Judicial Conference of the United States, rather than a sentencing commission, was directed to establish sentencing guidelines; (2) appellate review of sentences was available only to defendants; and (3) early release on parole was maintained.

LEGISLATION

H.R. 6915 (Drinan et al.)

Criminal Code Revision Act of 1980. Classifies all Federal crimes into nine categories, and prescribes the maximum sentence of imprisonment for each: Class A felony, life; Class B felony, 160 months; Class C felony, 80 months; Class D felony, 40 months; Class E felony, 18 months; Class A misdemeanor, 12 months; Class B misdemeanor, 6 months; Class C misdemeanor, 30 days; infraction, none. Increases the maximum fines over those allowable under current law: (1) for a felony, $250,000 if the defendant is an individual and $1,000,000 if the defendant is an organization; (2) whether the defendant is an individual or an organization, $25,000 for a Class A misdemeanor, $15,000 for a Class B misdemeanor, $5,000 for a Class C misdemeanor, and $1,000 for an infraction. Authorizes sentences of conditional discharge or probation unless the offense involved is a Class A felony. Provides that a convicted defendant may be sentenced to make restitution to the victim of the offense. Sets forth eight purposes of sentencing: to assure that severity of punishment is proportionate to the offense; to assure that like offenders receive like sentences; to promote respect for the law; to deter; to protect the public; to provide the defendant with correctional treatment; to provide restitution to victims; and to reconcile the victim, community and offender. Directs the Judicial Conference of the United States to establish guidelines governing the imposition of sentences for Federal offenses. Establishes a seven-member Committee on Sentencing within the Judicial Conference to analyze on a continuing basis data on sentences imposed by Federal courts; to recommend sentencing guidelines to the Judicial Conference; and to recommend standards for Federal judges to use in cases involving plea bargaining or youthful offenders. Directs that a court shall impose a sentence within the sentencing guidelines unless there is a finding of aggravating or mitigating circumstances. Provides that at the time of sentencing the reasons for imposition of the particular sentence shall be stated on the record, including an explanation for any variance from the guidelines. Allows defendants to obtain appellate review of sentences. Provides that prisoners sentenced to more than 1 year shall be eligible for early release on parole after serving one-half of their sentence, or after serving 10 years of a life sentence or a sentence of more than 20 years. Eliminates credit toward service of sentence for good behavior in prison. Introduced Mar. 25, 1980; referred to Committee on the Judiciary. Favorably reported on Sept. 25, 1980 (H.Rept. 96-1396).

S. 1722 (Kennedy)

Criminal Code Reform Act of 1979. As reported, classifies all Federal crimes into nine categories, and prescribes the maximum sentence of imprisonment for each: Class A felony, life; Class B felony, 20 years; Class C felony, 10 years; Class D felony, 5 years; Class E felony, 2 years; Class A misdemeanor, 1 year; Class B misdemeanor, 6 months; Class C misdemeanor, 30 days; infraction, 5 days. Increases the maximum fines over those allowable under current law: for an individual, (1) not more than $250,000 for a felony or for a misdemeanor resulting in loss of life, (2) not more than $25,000 for any other misdemeanor, and (3) not more than $1,000 for an infraction; for an organization, (1) not more than $1,000,000 for a felony or for a misdemeanor resulting in loss of life, (2) not more than $100,000 for any other misdemeanor, and (3) not more than $10,000 for an infraction. Authorizes sentence of probation for all offenses except Class A felonies, or in certain specified circumstances. Authorizes a judge to impose, in appropriate cases and in addition to any other sentence, an order of criminal forfeiture, an order to give notice of conviction to victims, or an order to make restitution to victims. Sets forth four purposes of sentencing: deterrence, protection of the public, assurance of just punishment, and rehabilitation. Creates a U.S. Sentencing Commission within the judicial branch to consist of seven voting members and the Attorney General as a non-voting member. Directs the Commission to establish guidelines to govern the imposition of sentences for Federal offenses. Provides that if the sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such term shall not exceed the minimum of that range by more than 25%. Directs that a court shall impose a sentence within the guidelines unless there is a finding of aggravating or mitigating circumstances. Provides that at the time of sentencing the reasons for imposition of the particular sentence must be stated in open court, including an explanation for any variance from the guidelines. Allows defendants to obtain appellate review of sentences higher than the maximum established in the guidelines, and allows the Government to obtain appellate review of sentences lower than the minimum established in the guidelines. Eliminates early release on parole. Provides that a prisoner who is serving a term of imprisonment of more than 1 year, other than a life sentence, may earn credit toward service of sentence for good behavior in prison, at a rate of up to 36 days per year, beginning after the first year served. Provides that any such credit earned may not later be withdrawn, and any credit not earned may not later be granted. Authorizes the court, in imposing a sentence of imprisonment of more than 1 year, to include as part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment. Provides that the authorized terms of supervised release are (1) for a Class A or B felony, not more than 3 years; (2) for a Class C or D felony, not more than 2 years; and (3) for a Class E felony, or two or more misdemeanors, not more than 1 year. Introduced Sept. 7, 1979; referred to Committee on Judiciary. Hearings held by full Judiciary Committee on Sept. 11, 13, 18, 20, and 24, and Oct. 5, 1979. Favorably reported on Jan. 17, 1980 (S.Rept. 96-553).

McClure, Barbara P.
IB77108

MLC-091

CRIMINAL CODE REFORM (FEDERAL)

...obsolete patchwork of laws...

The criminal code legislation considered by the 96th Congress represented the continuation of a reform effort that began in 1966 with the establishment of the National Commission on Reform of Federal Criminal Laws (the "Brown Commission"). Criminal code reform bills were introduced in the 93d through the 96th Congress, but none progressed any further than passage by one House of Congress.

S. 1722 and H.R. 6915, the bills under consideration in the 96th Congress, were similar in structure, yet differed in content in a number of ways. Neither, however, contained some of the controversial provisions of previous legislation, such as expansion of Federal jurisdiction, recodification of the death penalty, and modification of the insanity defense. Each bill employed a framework consisting of five general sections: provisions of general applicability, offenses, sentencing, administration and procedure, and ancillary civil proceedings. As in previous bills, each proposal organized by general subject matter, with the exception of misdemeanor regulatory violations, the offenses already in Title 18 and now scattered throughout other parts of the U.S. Code. The sentencing chapters in both bills substantially reformed the current Federal sentencing system. The bills differed partly in their treatment of ancillary Federal jurisdiction, conspiracy and attempt violations, bars and defenses, offenses involving Government processes, extortion, and sentencing.

If reintroduced and enacted by the 97th Congress, the legislation would be regarded as the successful culmination of a persistent congressional attempt to replace the sometimes inconsistent and obsolete patchwork of existing Federal laws with a systematic, comprehensive, and modern criminal code.

LEGISLATION

S. 1722 (Kennedy et al.)

Criminal Code Reform Act of 1979. Amends in its entirety Title 18, U.S. Code, the Federal criminal code. Introduced Sept. 7, 1979; referred to Committee on the Judiciary; reported Jan. 17, 1980, with an amendment (S.Rept. 96-553). No further action occurred.

S. 1723 (Kennedy et al.)

Criminal Code Revision Act of 1979. Amends in its entirety Title 18, U.S. Code, the Federal criminal code (Senate introduction of a House draft proposal). Introduced Sept. 7, 1979; referred to Committee on the Judiciary. No further action occurred.

H.R. 6915 (Drinan et al.)

Criminal Code Revision Act of 1980. Amends in its entirety Title 18, U.S. Code, the Federal criminal code. Introduced Mar. 25, 1980; referred to Committee on the Judiciary, which began consideration of bill in April. This is a clean version of H.R. 6233, introduced Jan. 7, 1980, and marked up by the Subcommittee on Criminal Justice. Ordered reported by House Judiciary Committee July 2, 1980. No further action occurred.

Jagelski, Jeanne G.
IB80016

MLC-092

DRUG ABUSE: SUPPLY REDUCTION (SEE ALSO "HEALTH")

...penalty changes, etc....

The nonmedical use of dangerous and dependence-producing drugs has been a matter of concern in the United States for well over half a century, but in the past 15 years or so political interest in the problem has been especially marked. During this period, an apparently sharp increase in heroin use in certain inner cities was accompanied by the widely reported spread of drug abuse in general.

The White House and Congress have reacted to public alarm both by initiating new legislation and by expanding existing programs. Interest and action have covered all aspects of the drug abuse problem: treatment, education, and research, as well as so-called "law enforcement" efforts. With respect to the latter, the most important legislative development in recent times was enactment of the Controlled Substances Act of 1970, which consolidated and revised the Federal narcotics and dangerous drug regulatory statutes.

The budget totals of the past decade provide a measure of the growth in the general Federal commitment to prevention of drug abuse, especially since FY69: spending for all activities with this purpose rose from $74 million in that year to approximately $918 million in FY80; drug abuse law enforcement spending went from $37 million to $518 million during the same period. The FY81 Presidential requests projected total obligations of about $902 million, of which some $538 million were for law enforcement efforts.

In the drug law enforcement area, significant legislative issues in the 96th Congress included (1) legal problems posed by offshore drug smuggling, where "mother ships" discharge illicit drug cargo from outside U.S. territorial waters; (2) reauthorization of the International Narcotics Control Program under the Foreign Assistance Act; (3) reauthorization of appropriations for enforcement of the Controlled Substances Act; (4) criminal code reform, insofar as it relates to criminal penalties for violations of the Controlled Substances Act; (5) further restrictions on transport or transfer of monetary instruments out of the United States; (6) other amendments to Federal banking and currency laws designed to curb the movement of illicit drug proceeds; (7) mandatory penalties for traffickers in the more dangerous drugs; (8) denial of bail to accused traffickers, to prevent post-arrest trafficking; (9) "decriminalization" of simple possession of marihuana; (10) added Customs authority to search persons leaving the country; (11) impediments to IRS cooperation with other Federal agencies in pursuit of drug traffickers; and (12) approval (for ratification) of the Convention on Psychotropic Substances.

The drug abuse problem has been examined extensively during the last decade. Among the more recent major studies are the 1972 report of the National Commission on Marihuana and Drug Abuse, on marihuana, and its second and final report, in 1973, on the problem of drug abuse in general; a 1972 Consumers' Union report; a 1975 "white paper" by a task force of the President's Domestic Council; various reports by the Office of Drug Abuse Policy released in 1977 and 1978; and special studies by the Drug Abuse Council. Other background reading includes the annual strategy reports of the U.S. Strategy Council on Drug Abuse; a Government Accounting Office report entitled "Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes (10-25-79); and the "Congressional Resource Guide to the Federal Effort on Narcotic Abuse and Control, 1969-1976" issued in 1978 by the House Select Committee on Narcotics Abuse and Control.

LEGISLATION

P.L. 96-92, H.R. 3173

International Security Assistance Act of 1979. Among other things, extends the appropriation authorization for the International Narcotics Control program under section 482 of the Foreign Assistance Act. Extends the program through FY80, a 1-year extension, authorizing $51.7 million, with $16 million earmarked for the Republic of Colombia. Provides that contributions to the U.N. Fund for Drug Abuse Control may not exceed $3 million or 25% of total member-nation contributions. Amends the anti-paraquat provision of 1978 to make clear that it is not intended to jeopardize programs aimed at reducing narcotics traffic. H.R. 2481 introduced Feb. 28, 1979; referred to Committee on Foreign Affairs. H.R. 3173, a clean bill, reported in lieu of H.R. 2481 Mar. 24 (H.Rept. 96-70). Passed House Mar. 29. In Senate, referred to Foreign Relations Committee Apr. 2. Reported in Senate May 15 (no written report). Passed Senate amended May 22. Senate agreed to a conference June 21. Senate agreed to conference report Oct. 4 (H.Rept. 96-495). House agreed to conference report Oct. 16. Enacted into law Oct. 29, 1979. S. 584 introduced Mar. 8, 1979; referred to Committee on Foreign Relations. Reported May 11 (S.Rept. 96-136). Incorporated in H.R. 3173 as an amendment May 22, 1979.

P.L. 96-132, S. 1157

Department of Justice Appropriation Authorization Act, FY80. Authorizes appropriations for the Justice Department, for FY80. For the Drug Enforcement Administration, authorizes $198.3 million. S. 1157 introduced May 15, 1979; referred to Judiciary Committee. Reported May 15 (S.Rept. 96-173). Passed Senate June 4. Passed House amended, in lieu of H.R. 3303, Oct. 16. House agreed to a conference Oct. 23. H.R. 3303 introduced Mar. 28, 1979; referred to Judiciary Committee. Reported, amended, Apr. 23 (H.Rept. 96-99, Part I); referred to Permanent Select Committee on Intelligence and Committee on Interstate and Foreign Commerce. Reported by Intelligence Committee May 8 (H.Rept. 96-99, Part II) and by Commerce Committee May 15 (H.Rept. 96-99, Part III). (See also H.Rept. 96-195, accompanying H.R. 3987.) Senate and House agreed to conference report Nov. 27 (H.Rept. 96-628). Enacted into law Nov. 30, 1979.

P.L. 96-350, H.R. 2538

Makes it unlawful for any person on board a U.S. vessel or a vessel subject to U.S. jurisdiction -- or for a U.S. citizen on any vessel -- to possess, manufacture, distribute, dispense, or unlawfully import a controlled substance; makes it unlawful for any person anywhere to possess a controlled substance intending or knowing that it will be unlawfully imported into the United States; provides for penalties of up to 15 years imprisonment and/or a fine of up to $25,000 for a first offense, and up to 30 years and/or up to $50,000 for a second. Introduced Mar. 1, 1979; referred to Committee on Merchant Marine and Fisheries. Reported, amended, July 10, 1979 (H.Rept. 96-323). Passed House July 23. In Senate, referred to Commerce, Science, and Transportation Committee July 24, 1979. Reported, amended, July 16, 1980 (S.Rept. 96-855). Passed Senate, amended, July 24. House concurred in Senate amendments with an amendment July 31, 1980. Senate concurred in House amendments Sept. 3, 1980. Enacted into law Sept. 15, 1980 (P.L. 96-350).

P.L. 96-359, H.R. 6940/S. 2490

Infant Formula Act of 1980. Contains provisions (1) increasing the maximum penalty for trafficking in marihuana in amounts exceeding 1,000 lbs., from the present 5 years in prison and/or $15,000 to 15 years and/or $125,000 (double for second offense); (2) extending the 1978 amendments to the Controlled Substances Act relating to commerce in the PCP constituent piperidine; and (3) directing the Attorney General to make available to the States additional information on the extent of and trends in the abuse of drugs. H.R. 6940 introduced Mar. 26, 1980; referred to Committee on Interstate and Foreign Commerce. Reported, amended, May 12 (H.Rept. 96-936). Passed House (rules suspended) May 20. In Senate, referred to Committee on Labor and Human Resources. Passed Senate Sept. 8, with text of S. 2490. House concurred in Senate amendment Sept. 9, 1980. H.R. 6940 enacted as P.L. 96-359 Sept. 26, 1980. S. 2490 introduced Mar. 27, 1980; referred to Committee on Labor and Human Resources. Reported Aug. 26 (S.Rept. 96-916).

P.L. 96-533, H.R. 6942/S. 2423

International Security and Development Cooperation Act of 1980. Among other things, extends the appropriation authorization for the International Narcotics Control Program under section 482 of the Foreign Assistance Act. For FY81, authorizes $38.6 million. Makes available certain aircraft, communications equipment and operational support to the Colombian anti-narcotics enforcement program. H.R. 6658 introduced Feb. 27, 1980; referred to Committee on Foreign Affairs. H.R. 6942, a clean bill, introduced Mar. 26. Reported Mar. 27 (H.Rept. 96-884, Part I); referred to Intelligence Committee. Reported by Intelligence May 1 (H.Rept. 96-884, Part II). Passed House June 5. Passed Senate June 17, with text of S. 2423 as amended. House agreed to a conference June 20, 1980; House agreed to conference report Dec. 2 (H.Rept. 96-1471). Senate agreed to conference report Dec. 3, 1980. H.R. 6942 enacted as P.L. 96-533 Dec. 16, 1980. S. 2423 introduced Mar. 14, 1980; referred to Committee on Foreign Relations. Reported May 15 (S. Rept. 96-732).

H.R. 5961 (LaFalce, St. Germain, Wolff, et al.)/S. 2236 (Proxmire)

Amends the Currency and Foreign Transaction Reporting Act to prohibit the attempted transport into or out of the United States of monetary instruments exceeding $5,000 in value absent the prior filling of a report with the Treasury Department; also authorizes rewards to informants providing original information on a violation of the act. Allows customs officials to search for unreported amounts of cash without a warrant. H.R. 5961 introduced Nov. 27, 1979; referred to Committee on Banking, Finance and Urban Affairs, and to Committee on Ways and Means. Reported by Banking Committee Mar. 18, 1980 (H.Rept. 96-829, Part 1). Reported by Ways and Means Committee July 22 (H.Rept. 96-829, Part 2). House failed to suspend rule and pass H.R. 5961, July 28. S. 2236 introduced Jan. 30, 1980; referred to Committee on Banking, Housing and Urban Affairs.

H.R. 6915 (Drinan, Kindness, Hall, Sawyer, and Lungren)
Criminal Code Revision Act of 1980. Like S. 1722 (below), revises Title 18 of the U.S. Code. Transfers criminal penalty provisions of the Controlled Substances Act to the revised title and makes some substantive changes. Principal differences from Senate bill with respect to drug offenses: (1) lower maximum penalties for all felony classifications, (2) stricter state of mind requirement for establishment of culpability, (3) no mandatory penalties, (4) no change in existing law on marihuana possession, and (5) stricter treatment of cocaine trafficking offenses. H.R. 6233 introduced Jan. 7, 1980; referred to Judiciary Committee Jan. 22. H.R. 6915, a clean bill, introduced Mar. 25 (revised draft introduced Apr. 25). Reported, amended, Sept. 25, 1980 (H.Rept. 96-1396).

H.Res. 13 (Wolff)
Provides for the continuance of the House Select Committee on Narcotics Abuse and Control. Introduced Jan. 15, 1979; referred to Committee on Rules. Reported, amended, Mar. 5 (H.Rept. 96-27). Passed the House Mar. 21, 1979.

S. 1722 (Kennedy, Thurmond et al.)
Criminal Code Reform Act of 1979. Reorganizes Title 18 of the U.S. Code, among other things attempting to consolidate all criminal penalties therein under a uniform scheme. With respect to dangerous drug control, also makes a number of substantive changes in penalties for violation of the Controlled Substances Act, including (1) reinstatement of mandatory penalties for trafficking in opiates (2 years); (2) reduction of a number of maximum penalties; (3) differentiation of cocaine from other narcotics; (4) transfer of the drug phencyclidine (PCP) from Schedule III to Schedule I of the CSA; (5) increase of penalties for trafficking offenses involving PCP; and (6) lowering of penalties for possession of marihuana. Introduced Sept. 6, 1979; referred to Judiciary Committee. Reported, amended, Jan. 17, 1980 (S.Rept. 96-553).

S. 2377 (Baucus)/H.R. 6846 (Rodino)
Department of Justice Appropriation Authorization Act, FY81. Authorizes appropriations for the Justice Department for FY81. For the Drug Enforcement Administration, authorizes $209 million. S. 2377 introduced Mar. 4, 1980; referred to Committee on Judiciary. Reported May 20 (S.Rept. 96-786). Passed Senate, amended, June 19. H.R. 6846 introduced Mar. 18, 1980; referred to Committee on Judiciary. Reported Apr. 15 (H.Rept. 96-873, Part I). Referred to House Commerce Committee. Reported by Commerce Apr. 29 (H.Rept. 96-873, Part II).

Executive G - 92d Congress, 1st session.

Requests the Senate's advice and consent to the ratification of the Convention on Psychotropic Substances, an international treaty to promote the control of depressant, stimulant, and hallucinogenic substances. Transmitted to the Senate June 29, 1971; referred to the Committee on Foreign Relations. Reported, with reservation, Feb. 19, 1980 (Ex.Rept. 96-29). Approved for ratification Mar. 20. Ratified Apr. 16, 1980.

Hogan, Harry

MLC-093

FBI CHARTER: PROPOSED LEGISLATION

...flexibility vs. civil liberties...

The FBI's domestic intelligence and counterintelligence programs have been scrutinized by committees of Congress, the General Accounting Office, the executive branch, and civil libertarian groups since at least the mid 1970's. In the wake of congressional revelations of FBI activities that were alleged to be improper and illegal, as well as other Bureau improprieties, Attorney General Edward Levi on Mar. 10, 1976, issued three directives: "Guidelines for FBI Domestic Investigations;" 'Guidelines for FBI Reporting on Civil Disorders and Demonstrations Involving a Federal Interest;" and "Draft Guidelines for White House Personnel Security and Background Investigations." Later that same year, Dec. 15, 1976, the Attorney General promulgated new instructions, entitled "Guidelines for FBI Use of Informants in Domestic Security, Organized Crime, and Other Criminal Investigations."

The Levi guidelines have governed the Bureau's operations since 1976, but, as administrative orders, the guidelines can be replaced, modified, or reinterpreted by any future Attorney General. Therefore, various studies have recommended that Congress formally establish the FBI's responsibilities and authority in a legislative charter.

On July 31, 1979, a statutory charter for the FBI was introduced in the House and the Senate. The stated purpose of the charter was to define the Bureau's duties and responsibilities (except for foreign intelligence collection and foreign counterintelligence investigations) and "to confer upon the FBI and to codify the statutory authority necessary to discharge those duties and responsibilities...." During the 96th Congress hearings were held by the Senate Judiciary Committee and the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee. One question raised during the hearings was: does the proposed charter provide the FBI with sufficient flexibility to perform its mission on the one hand, while still prohibiting transgressions of civil liberties on the other? Some witnesses testified that the proposed charter would tie the hands of the Bureau, while others argued that the charter would permit unwarranted invasions of individuals' rights. The Carter Administration's position was that the proposed charter struck a balance between these two extremes.

There seemed to be general agreement among those who testified during the hearings that a charter for the FBI was desirable. The charter proposal received no floor action in either chamber.

LEGISLATION

H.R. 5030 (Rodino et al.)/S. 1612 (Kennedy et al.)
Federal Bureau of Investigation Charter Act of 1979. Defines the duties and responsibilities of the Federal Bureau of Investigation (FBI) except as to foreign intelligence collection and foreign counterintelligence investigations. Confers statutory authority upon the FBI, and establishes procedures for the discharge of duties and responsibilities. Introduced in House and Senate July 31, 1979; referred to Judiciary Committees. Hearings concluded in Senate Jan. 14, 1980, and in House, Feb. 7, 1980.

S. 2928 (Laxalt et al.)
Federal Bureau of Investigation Charter Act. Defines the duties and responsibilities of the Federal Bureau of Investigation (FBI) except as to foreign intelligence collection and foreign counterintelligence investigations. Confers statutory authority upon the FBI, and establishes procedures for the discharge of duties and responsibilities. Introduced July 2, 1980; referred to Committee on the Judiciary.

Cavanagh, M. Suzanne
IB79111

MLC-094

GUN CONTROL

...96th Congress declined to push the issue...

An anticipated Carter Administration bill for the further control of handguns failed to materialize, and congressional advocates of greater restrictions declined to push the issue in the 96th Congress. However, if the criminal code reform bill (S. 1722; H.R. 6915) reached the floor in either chamber, there would apparently have been a serious effort to attach an amendment making substantial changes in existing Federal law (Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title I of the Gun Control Act). The proposed amendment would have been identical or similar to the McClure-Volkmer bill (S. 1862/H.R. 5225), which had a large number of co-sponsors in both Senate and House. This bill, supported by the National Rifle Association, was designed to remove features of current law considered especially onerous to the firearms industry and to firearms enthusiasts. The measure has been characterized by proponents as a moderate proposal for reform, but gun control leaders have attacked it as an attempt to "gut" the 1968 legislation. Of the many bills to strengthen that statute, the most important was the Kennedy-Rodino bill (S. 1936; H.R. 5823).

LEGISLATION

S. 1722 (Kennedy, Thurmond et al.)/H.R. 6915 (Drinan, Kindness et al.)
Criminal Code Reform Act of 1979. Revises and recodifies title 18 of the U.S. Code (Crimes and Criminal Procedures). Attempts to transfer all criminal penalty provisions to title 18 and tie them to a general scheme of sentences and fines within the limits of which the courts are to be guided by the policies and guidelines established by a Sentencing Commission. With respect to violations of the Gun Control Act, amends the provision for added penalties for use or possession of a gun while committing a Federal felony by (1) raising the minimum for a first-time offender from 1 to 2 years, if the gun were used or displayed (rather than merely possessed, which would remain subject to the one-year minimum); (2) eliminating the possibility of probation or suspended sentence for a first-time offense; and (3) limiting the application of the provision to firearm possession or use during commission of a "crime of violence." Also makes distinction between penalties for "regulatory" offenses and other violations. S. 1722 introduced Sept. 7, 1979; referred to Judiciary Committee. Reported, amended, Jan. 17, 1980 (S. Rept. 96-553). H.R. 6233 introduced Jan. 7, 1980; referred to Judiciary Committee. H.R. 6915, a clean bill, introduced Mar. 25 (revised draft introduced Apr. 25). Reported, amended, Sept. 25, 1980 (H.Rept. 96-1396).

Hogan, Harry
IB74011

MLC-095

LAW ENFORCEMENT REORGANIZATION AT THE FEDERAL LEVEL

...seven bills signed into law...

Law enforcement has been a Federal concern since the inception of the Republic. Although it remains primarily a State and local responsibility, Federal efforts have expanded dramatically, especially during the past decade, and include 110 separate executive units with an estimated 220,000 personnel and a combined annual budget of $5 billion. According to a 1978 study by the President's Reorganization Project, Federal law enforcement is characterized by fragmented authority and overlapping jurisdiction, held by agencies dispersed throughout the executive branch and exercising varying degrees of independence, administrative discretion, and accountability.

Both Congress and the Chief Executive have initiated reorganization efforts in this broad field, ranging from consolidation of units engaged in similar jurisdictional responsibilities, establishment of new law enforcement entities, and improvement in the operation and accountability of specific agencies. Some of the major areas and agencies under consideration, or already affected by reorganizations, include: re-structuring of Federal antiterrorist activities, presently dispersed among 29 executive units and coordinated by the Working Group on Terrorism; intelligence community reorganization and reform, as it affects the activities of the FBI, the Drug Enforcement Administration, and other law enforcement agencies, as well as internal intelligence agency control units, such as inspectors general; establishment of offices of inspector general among 12 executive departments and agencies; and creation of a Merit System Protection Board in the Office of Personnel Management and an Office of Government Ethics.

LEGISLATION

In the 96th Congress, several enactments affected Federal law enforcement organization. The Department of Justice Authorization Act, P.L. 96-132, created an Office of Special Investigation in INS; P.L. 96-157 restated and amended Title I of the Omnibus Crime Control and Safe Streets Act of 1968 by restructuring LEAA and establishing within the Justice Department a Bureau of Justice Statistics, the National Institute of Justice, and the Office of Justice Assistance, Research, and Statistics. In 1980, P.L. 96-226 was signed into law, requiring the audit activities of the inspectors general of the Department of Health, Education, and Welfare and the Department of Energy to conform to General Accounting Office standards, as do the 12 inspectors general created by P.L. 95-452. A fourth enactment, P.L. 96-329, extended Secret Service protection for spouses of major Presidential and Vice Presidential candidates to 120 days prior to the November general election. In addition, an Office of Inspector General was established in the State Department (P.L. 96-465), the jurisdiction of the U.S. Capitol Police was expanded (P.L. 96-432), and the Federal Protective Service/GSA received authority to guard certain facilities and grounds under control of the National Security Agency (P.L. 96-450).

P.L. 96-132, S. 1157

Justice Department Authorization Act for FY80 contained provision for creation of an Office of Inspector General/INS, as approved by the House on Oct. 16, 1979, based upon recommendation from the House Judiciary Committee (H.Rept. 96-99, Part I). The Senate version did not include such a provision; and the Conference Committee report (H.Rept. 96-628 and S.Rept. 96-418) resolved the difference through a modified recommendation--establishment of an Office of Special Investigator with the functions and duties of the Inspectors General created by P.L. 95-452, but with a limited life span of three years and with a head appointed by the Attorney General. The conference report, approved by both Chambers Nov. 27, 1979, also required the Attorney General to study the feasibility of establishing an Office of Inspector General for the entire Department of Justice, a report of which was to be made to the House and Senate Judiciary Committees not later than Feb. 15, 1980. Signed into law (P.L. 96-132) Nov. 30, 1979.

P.L. 96-157, H.R. 2061/S. 241

Introduced by the Chairmen of the House and Senate Judiciary Committees, Representative Rodino and Senator Kennedy, respectively, at the request of the Carter Administration, the statute restructures LEAA and establishes within the Justice Department a Bureau of Justice Statistics, the National Institute of Justice, and the Office of Justice Assistance, Research, and Statistics. S. 241 reported favorably as amended by Senate Judiciary Committee May 14, 1979 (S.Rept. 96-142); passed Senate May 21, 1979. On May 15, 1979, the House Judiciary committee reported, with amendment, H.R. 2061; on Oct. 12, 1979, the House passed S. 241 in an amended form to incorporate the language of H.R. 2061. Conference report filed Nov. 16, 1979 (H.Rept. 96-655). That conference report was recommitted and a second report (H.Rept. 96-695) was filed. The Senate agreed to the second conference report Dec. 11, 1979; the House agreed Dec. 13, 1979. Signed into law (P.L. 96-157) Dec. 27, 1979.

P.L. 96-226, H.R. 24

General Accounting Office Act of 1980. Includes a provision which amends the statutes creating the offices of inspector general in HEW (P.L. 94-505) and the Department of Energy (P.L. 95-91), specifying that the audit activities of the offices should conform to GAO standards, as do the 12 counterpart offices established by the Inspector General Act of 1978 (P.L. 95-452). Hearings held by Subcommittee on Legislation and National Security of House Government Operations Committee, which favorably reported out the bill Sept. 11, 1979 (H.Rept. 96-425). Passed House, amended, Oct. 29, 1979. Passed Senate, amended, Feb. 28, 1980. Signed into law (P.L. 96-226) Apr.3, 1980.

P.L. 96-329, H.R. 7786

Extends Secret Service protection for the spouses of major Presidential and Vice Presidential candidates to 120 days before the November general election. Amends existing legislation limiting such protection to 60 days and affecting only candidates of major political parties. Request for legislation transmitted to Congress by Secretary of the Treasury Miller, at the request of Republican Presidential nominee Ronald Reagan. Reported by House Committee on the Judiciary (H.Rept. 96-1196), as amended, July 28, 1980; passed House the same day under a suspension of the rules. Passed Senate Aug. 1, 1980; signed into law Aug. 12, 1980.

P.L. 96-432, H.R. 6331

Originally introduced as H.R. 5334, includes specified areas and portions of streets within the definition of the U.S. Capitol Grounds and authorizes the Capitol Police Board to detail police for duty on the Capitol Grounds and the Library of Congress Grounds. Introduced Jan. 29, 1980; referred to Committee on Public Works and Transportation. Reported to House (H.Rept. 96-903) Apr. 24, 1980, and passed, as amended, on Sept. 22, 1980. Called up under unanimous consent in Senate and passed on Sept. 24, 1980.

P.L. 96-450, S. 2597

The authorization for intelligence activities of the U.S. Government for FY81 includes a provision to authorize the General Services Administration (GSA) to provide protection for installations and grounds under the control or use of the National Security Agency (NSA), when such installations or grounds are not owned by the United States or leased under the authority of GSA. Reported favorably Apr. 23, 1980, by Senate Select Committee on Intelligence (S.Rept. 96-659); referred to Senate Committee on Armed Services, which reported the bill, as amended (S.Rept. 96-839) on June 27, 1980. Passed Senate as amended on June 28, 1980; and passed the House, after being further amended to contain the language of the House bill (H.R. 7152), on July 28, 1980. A conference report (H.Rept. 96-1350) was filed and agreed to by the Senate on Sept. 19 and by the House on Sept. 30, 1980, contains provision for GSA protection for certain NSA installations in the same manner as Federal Protective Service guards protect GSA - controlled buildings. Became P.L. 96-450 Oct. 14, 1980.

P.L. 96-465, H.R. 6790
Consolidates the Foreign Service administration, and, among other things, provides for an Inspector General. Reported by House Committees on Post Office and Civil Service (H.Rept. 96-992, Part I), and on Foreign Affairs (H.Rept. 96-992, Part II) May 15, 1980; passed by House, as amended, Sept. 9, 1980; passed Senate, amended Sept. 15, 1980. Conference report (H.Rept. 96-1432) approved by Senate Sept. 30, and by House Oct. 1, 1980. Signed into law Oct. 17, 1980.

H.J.Res. 634 (Wright)
Authorizes Secret Service protection for the current Vice President and his spouse, if the President determines that such person may be in significant danger, to continue for such period as the President determines but no longer than July 20, 1981. Passed under unanimous consent in House Nov. 21, 1980.

S. 2724 (Randolph)
Amends the Water Resources Development Act of 1976 to extend the authorization of appropriations for law enforcement services at water resources development projects of the Army Corps of Engineers. Reported to Senate May 15, 1980, by Committee on Environment and Public Works (S.Rept. 96-743) and passed, as amended, Sept. 22, 1980. At request of Senate, measure was returned from House Sept. 24, 1980.

Kaiser, Frederick M.
IB77094

MLC-096

PRISON REFORM: FEDERAL ROLE

...no clear consensus on what should be done...

There is little dispute that American prisons are in need of reform. Recent studies have shown that approximately one-third of the offenders released from prison will be reimprisoned within 5 years. Also, these repeat offenders tend to commit more serious crimes after their release. In addition, several recent Federal court rulings, most notably two Alabama cases heard in 1975, and a 1977 case in Rhode Island, have pointed out that conditions in some prisons are such that incarceration constitutes cruel and unusual punishment. The Supreme Court has upheld those cases it has heard on appeal. According to a recent report by the American Civil Liberties Union's National Prison Project, 18 States, plus the District of Columbia, Puerto Rico, and the Virgin Islands, are now under court order to correct overcrowding or the total conditions of confinement. An additional 11 States are facing legal challenges over prison conditions. Riots, such as at Attica State Prison, N.Y., and, more recently, in Santa Fe, New Mexico, have exposed the frustrations and resentment that prisons foster in inmates who will at some time be released into society.

Prison reform, like criminal law and its enforcement, is primarily within the jurisdiction of the States and localities. Consequently, the legislative jurisdiction of Congress has been limited to two general areas: reforms affecting the policy and operations of the Federal prison system which also serve as models for State prison reform; and legislation providing assistance for reform activities conducted by public and private agencies. In spite of these limitations, the Federal role in prison reform is important. Of 314,000 offenders currently housed in the Nation's prisons, approximately 23,500 are in Federal institutions.

In the 96th Congress, only a few pieces of legislation affecting prisons or prisoners were introduced. The most important of these was H.R. 10 (and its companion bill, S. 10) which was approved as P.L. 96-247 on May 23, 1980. This legislation authorized the Attorney General to institute civil suits on behalf of persons confined in State correctional or health facilities who are being deprived of their Federal constitutional or statutory rights. A number of bills (H.R. 5610, S. 2722, and others) were introduced that would preclude or limit the payment of social security benefits to prisoners.

LEGISLATION

P.L. 96-247, H.R. 10
Authorizes the Attorney General to institute a civil suit in behalf of any person confined in a State correctional or health facility who is being deprived of Federal constitutional or statutory rights, provided such person has exhausted State administrative remedies which meet certain minimum standards under the Civil Rights Act. H.R. 10 introduced Jan. 15, 1979; referred to Judiciary Committee. Reported, amended, Apr. 3, 1979 (H.Rept. 96-80). 1979. Passed House, amended, May 23, 1979. The Senate bill, S. 10 introduced Jan. 15, 1979; referred to Judiciary Committee. Reported by Judiciary Committee, amended, Nov. 15, 1979 (S.Rept. 96-416). H.R. 10 passed Senate, amended to incorporate the language of S. 10, on Feb. 28, 1980. Senate accepted conference report May 6; House passed conference report May 12. Signed into law as P.L. 96-247 May 23, 1980.

McClure, Barbara

MLC-097

TORT CLAIMS ACT: PROPOSED AMENDMENTS

...immunizing Federal employees...

An intelligence officer breaks into the office of a group he suspects is engaged in terrorist activities. He takes papers from its files without a search warrant. The group's constitutional rights have been violated and they want to do something about it. The group can bring a constitutional tort claim against the officer; if he has acted in bad faith, they can recover money for the injury, but they probably cannot sue the United States Government for its derivative liability.

It is peak traffic hour at Washington National Airport. A plane crashes and all the passengers are killed. A preliminary investigation shows that the accident may have been caused by the negligence of a flight control engineer employed by the Federal Government. The passengers' next of kin can sue the Federal Government, but for various reasons they also want to sue the flight control engineer. They can.

Presently Congress is considering ways to amend the Federal Tort Claims Act to make constitutional tort claims actionable against the United States and to immunize Federal employees from work-related tort liability. If these amendments are enacted, then in the examples above neither the intelligence officer (in most cases) nor the flight control engineer (in all cases) could be sued and the injured party's exclusive remedy would be a tort action against the United States.

As presently framed, the Federal Tort Claims Act (FTCA) generally only authorizes recovery against the United States for the negligent acts that Federal employees commit during the course of employment. The Act does not allow recovery for most work-related intentional torts. Since constitutional torts arise from intentional misconduct that causes injury, these torts are usually not actionable under FTCA. In most cases, the aggrieved party's only existing remedy is to sue the Federal employee, since the United States cannot be sued for its derivative liability. The proposed amendments to FTCA would plug this loophole by allowing the aggrieved party to bring an action for damages against the United States.

With few exceptions, FTCA is not an exclusive remedy. A person harmed by the conduct of a Federal employee has the option of bringing a common law tort action against the individual employee for his or her personal liability, a FTCA action against the United States for its derivative liability, or both.

Most of the proposed amendments would make the FICA remedy against the United States exclusive. In other words, if the claim meets all the requirements under FTCA, a suit could not be brought against the individual employee.

The genesis of these proposals is H.R. 10459 of the 93d Congress. The 96th Congress considered similar bills (H.R. 193, H.R. 2659, and S. 695), some with significant variations. All of these proposals would have granted immunity to Federal employees from most work-related tort liability; some of these proposals would have established an administrative procedure for investigating and punishing unconstitutional conduct.

By and large, the focus of the deliberations in the 96th Congress was on substitute avenues to insure employee accountability in the absence of personal liability.

The 97th Congress is expected to continue working on ways to amend FTCA to make constitutional torts actionable and to immunize Federal employees from tort liability.

LEGISLATION

H.R. 2659 (Rodino et al.)
Amends the Federal Tort Claims Act to authorize constitutional tort claims against the Government, to immunize Federal employees from most work-related tort liability, and to establish an administrative procedure for reviewing and punishing unconstitutional conduct. Introduced Mar. 6, 1979; referred to Committee on the Judiciary. Hearings by Subcommittee on Administrative Law and Governmental Relations held June 20, July 18, Aug. 1, 1979.

S. 695 (Kennedy)
Amends the Federal Tort Claims Act to authorize constitutional tort claims against the Government, to immunize Federal employees from most work-related tort liability and to establish an administrative procedure for investigating and punishing unconstitutional conduct. Introduced Mar. 15, 1979; referred to Committee on the Judiciary.

McManus, Laurie P.; Ujevich, Robert M.
IB79017

NATURAL RESOURCES

MLC-098

ALASKA NATIONAL INTEREST LANDS (D-2) LEGISLATION

...96th Congress priority...

How much of the Federal Government's vast landholdings in Alaska should be preserved for scenic, recreation, wildlife, and wilderness uses by greatly restricting mining, timber harvesting, and other intensive resource uses? This question lay at the heart of the so-called Alaska lands issue -- also called the "D-2" or "national interest" lands issue -- which the Carter Administration and many environmental groups believed to provide the Nation's most important remaining land conservation opportunity.

This opportunity existed because most of the 375 million acres that Secretary of State Seward purchased from Russia in 1867 remained in Federal ownership. Although Congress authorized the conveyance of about 148 million acres of Federal land to the State of Alaska and Alaskan natives, about 225 million acres remained in Federal ownership. With the exception of 7 million acres of national parks and 22 million acres of national wildlife refuges which have been managed for strict conservation, much of Alaska had been managed for "multiple use" of resources -- a management concept which, in theory, permitted uses such as mining and logging, as well as conservation.

Both the 96th Congress and President Carter became deeply involved in the Alaska lands issue. After the 95th Congress adjourned without meeting its own timetable for enacting a "D-2" bill, the Carter Administration promptly seized the initiative. On Nov. 16, 1978, Secretary of the Interior Andrus withdrew 110 million acres of Federal land in Alaska "to preserve values that would otherwise be lost" under section 204(e) of the Federal Land Policy and Management Act of 1976 (P.L. 94-579). On Dec. 1, 1978, President Carter used his authorities under the 1906 Antiquities Act (16 U.S.C. 431) to designate 56 million acres of the temporary 3-year withdrawals as permanent new national monuments -- full-fledged units of the National Park System. On Feb. 11, 1980, Interior Secretary Andrus increased the term of withdrawal to 20 years on an additional 40.1 million acres comprising 12 wildlife refuges and 4 natural areas.

President Carter's and Interior Secretary Andrus' action, applauded by environmentalists, were heatedly contested by the State of Alaska, economic growth proponents for Alaska, and industries that use resources from Federal lands (such as mining companies, energy corporations, and pulp and paper firms).

Following passage of the Udall-Anderson substitute for H.R. 39 in the House and the passage of the Tsongas-Roth-Jackson-Hatfield substitute for H.R. 39 in the Senate, the struggle for consensus on this measure returned to the House. The Nov. 4 election of Reagan, a Republican Senate, and a more conservative House caused the House to accept the Senate version of H.R. 39 without major revision on Nov. 12, 1980. President Carter signed this measure as P.L. 96-487 on Dec. 2, 1980.

LEGISLATIVE PROPOSALS IN THE 96TH CONGRESS

(1) *P.L. 96-487 (H.R. 39 -- Tsongas-Roth-Jackson-Hatfield Substitute).* Established a total of 107.1 million acres of new conservation units including 24.6 million acres of national parks and monuments, 19.0 million acres of park preserves, 53.7 million acres of wildlife refuges, 6.6 million acres of national forests, 1.0 million acres of wild and scenic rivers, and 2.2 million acres of BLM-managed recreation and conservation areas. In addition, wilderness protection was extended to 56.4 million acres in new and existing conservation units. Permitted five years of industry and Federal seismic exploration for oil and gas on 900,000 acres of the coastal plain in the William O. Douglas Arctic Wildlife Range, but will not allow development without congressional approval. Mandated a 4.5 billion board-feed timber harvest each decade on Tongass National Forest lands. Conveyed a 23,000-acre parcel on Admiralty Island to an urban Native corporation. Permitted development of mineral resources in selected areas. Transportation rights were guaranteed for a corridor across the proposed Gates of the Arctic National Park. Provision restricted any future Federal action to create additional conservation units larger than 5,000 acres in Alaska. Revoked the executive withdrawals creating monuments and refuges. Finalized State selections of 98 million acres granted under the Alaska Statehood Act. Passed the Senate on Aug. 19, 1980, by a vote of 78-14. House concurred in Senate amendments on Nov. 12, 1980. President Carter signed as P.L. 96-487 on Dec. 2, 1980.

(2) *H.R. 39 as passed by the House.* On May 16, 1979, the House passed H.R. 39, an Alaska lands bill that would place 127.5 million acres in new national parks, wildlife refuges, and forests. The bill passed by the House (similar to H.R. 3651, and called the Udall-Anderson Substitute) was one of three alternative bills under consideration, the others being the so-called Breaux-Dingell Substitute (which was earlier reported from the House Merchant Marine and Fisheries Committee) and the Huckaby Substitute (which was earlier reported from the House Interior and Insular Affairs Committee). The Udall-Anderson substitute, favored by the Carter Administration and environmental groups, was adopted over the alternative measures by a vote of 268-157. The vote on final passage was 360-65.

As adopted by the House in the 96th Congress, H.R. 39 would have revised President Carter's national monument designations; established 44 million acres of new National Park System land (including 17 million acres as park preserves in which sport hunting and fishing would be permitted); created 79.5 million acres of new wildlife refuges; added 2.5 million acres to Alaska's existing national forests; confirmed President Carter's decision to designate Admiralty Island (1.1 million acres) and Misty Fjords (2.285 million acres) as national monuments under the administration of the Forest Service; and named 32 national wild and scenic rivers segments, 12 of which would be outside other conservation units.

The House bill also proposed to overlay 68.6 million acres with wilderness protection -- including 6.4 million acres of national forests (in which timber harvesting would have been curtailed), and 28.4 million acres of wildlife refuges (in which oil and gas development and mining would have been curtailed). Of the total wilderness designations, 27.5 million acres would have been applied to already existing conservation areas.

Two wilderness designations in H.R. 39 were especially controversial: designation of the coastal portion of the William O. Douglas Arctic Wildlife Range, which was believed to have high oil and gas potential, but also contained a major calving ground for the international Porcupine caribou herd and other wildlife values; and the wilderness designation for the Misty Fjords National Monument in the Tongass National Forest, where U.S. Borax discovered and claimed to what is reported to be the world's second largest molybdenum deposit.

H.R. 39, as passed by the House, would have designated the Arctic Range wilderness, which would have precluded exploration. As for Misty Fjords, the wilderness designation would not have prevented U.S. Borax from developing its claims, since National Forest wilderness areas are open to mining activities until 1984, and valid existing claims are not affected by wilderness designations. In conferring the wilderness designation for Misty Fjords, the House accepted two amendments to the bill which would have assured rights-of-way to valid mining claims across wilderness areas, and permitted mining companies with valid existing claims to explore sites near their claims.

As for oil and gas development, the bill would have permitted competitive leasing of: the National Petroleum Reserve-Alaska; non-wilderness portions of wildlife refuges; and Bureau of Land Management lands that were not redesignated as conservation units. In addition, a public land oil, gas, and mineral assessment program would have been established.

The bill also contained provisions for rights-of-way for transportation and utility corridors across conservation units.

Additional provisions in the bill relate to conveyance of State and Native lands; subsistence use of the lands, and administration.

(3) *H.R. 39 as reported by the House Interior and Insular Affairs Committee (Huckaby Substitute).* In reporting this version, the House Interior and Insular Affairs Committee substituted H.R. 2199 -- the so-called Huckaby Substitute -- as an amendment. The Huckaby Substitute was considered by its sponsors to represent a compromise D-2 agreement worked out by House, Senate, and Administration leaders in the final moments of the 95th Congress. Opponents of the bill disputed this contention.

(4) *H.R. 39 as reported by the House Merchant Marine and Fisheries Committee (Breaux-Dingell Substitute).* This version of H.R. 39 was actually a reworked version of H.R. 2219.

(5) *H.Con.Res. 452 and 453 (Udall).* Corrections for enrollment of H.R. 39. Other resolutions were introduced on Nov. 21, 1980, and agreed to by the House on this date. The Senate agreed to both these measures on Dec. 1, 1980.

(6) *H.R. 39 (as reported by the Senate Energy and Natural Resources Committee).* Incorporated changes made in S. 9 during 11 days of markup. Resembled a "compromise" bill developed in the final days of the 95th Congress by House and Senate leaders with the Secretary of the Interior. Set aside 102.2 million acres for new national parks, refuges, forests, and wilderness areas. Approximately 36.9 million acres were classified as wilderness. Slightly more than 42.9 million acres would have become national parks, including 17.9 million acres as park preserves and 2.6 million as National Recreation Areas. Four National Conservation Areas totalling 7.8 million acres would have been managed by the BLM. New wildlife refuges would have totalled 42.7 million acres. This version added 5.65 million acres to the William O. Douglas Arctic Wildlife Range splitting management among four agencies. Provisions permitted private seismic exploration for petroleum within the Range for a 5-year period, but reserved the decision on development for Congress. Also permitted mining in the Gates of the Arctic and Wrangell - St. Elias National Parks. Incorporated a compromise allowing U.S. Borax molybdenum mine development in southeast Alaska by placing approximately one-third of the Misty Fjords National Monument in a special management category. Revoked monument designations proclaimed by President Carter on Dec. 1, 1978. Additional park preserve acreage within Wrangell - St. Elias National Park increased acreage open to sport hunting. Authorized the Forest Service to offer logging rights on Admiralty Island on that portion of the island which would not be designated as a national monument. Divided the Gates of the Arctic area into several units, including some areas where mining would be permitted at the discretion of the Interior Secretary.

Environmental concerns with this bill focused on perceived creation of "horrendously complicated" management patterns by the subdivision of ecosystems among different management programs.

Senator Tsongas introduced five amendments (No. 1779 - No. 1783) on May 22 and Senator Stevens introduced three amendments (No. 1787 - No. 1789) on May 30, 1980.

(7) *H.R. 39 (Tsongas - Roth Substitute -- Amendment No. 626).* Proposed as a compromise between H.R. 39 as passed by the House and the version reported by the Senate Committee on Energy and Natural Resources.

Closely resembled H.R. 39 as passed by the House but retained several of the compromises agreed to in the Senate Committee's consideration of this issue including: (1) revocation of the Presidential national monument designations and other executive withdrawals; (2) provisions allowing U.S. Borax to develop its molybdenum claims with proper environmental safeguards; (3) underscored the traditional State role in fish and wildlife management on Federal lands open to hunting and fishing; (4) guaranteed access to State and private lands within Federal conservation units; and (5) settlement of complex Bristol Bay land issues allowing State selections. Differences from the version reported by the Senate Committee on Energy and Natural Resources included: (1) addition of 9.9 million acres to the William O. Douglas Arctic Wildlife Range and designation of the entire 13.4 million acre Range as wilderness, thus ruling out oil and gas exploration; (2) National Monument designation for all Admiralty Island with wilderness protection; (3) National Monument designation for entire Misty Fjords proposal with nearly all the area as wilderness; and (4) Gates of the Arctic maintained as a single National Park with wilderness. Acreage figures were very similar to H.R. 39 as passed by the House. A total of 127.7 million acres of new national parks, refuges, and forests were proposed. Total wilderness amounted to 66.8 million acres.

LEGISLATION

P.L. 96-487, H.R. 39 (various versions)
See discussion above.

Buck, Eugene H.

MLC-099

DEEP SEABED HARD MINERAL RESOURCES

...H.R. 2759 signed into law (P.L. 96-283)...

Hard mineral resources in the deep ocean represent a source of supply in addition to land sources, which can be used to supplement domestic supplies over approaching decades, and, in some cases, can provide raw materials that are not available domestically.

Located on the seabed, in many parts of the world oceans, are mineral resources in the form of nodules containing such commercially attractive constituents as manganese, cobalt, nickel, copper, molybdenum, vanadium, zinc, and others. The technology for mining and processing these nodules has advanced to the point where mining companies in the United States, England, the Soviet Union, West Germany, Canada, France, Australia, and Japan -- singularly and in consortia -- are on the verge of commercial exploitation.

However, since most promising sites for nodule exploitation are in international waters, lack of legal definition regarding ownership of seabed mineral resources inhibits purely commercial mining ventures. Under United Nations aegis, the Third Conference on the Law of the Sea convened in Caracas, Venezuela, in 1974 to establish a working legal regime for the exploitation of seabed resources, and to draw up a new international code governing the conduct of nations in terms of preservation, protection, and enlightened use of the world ocean. Agreement on deep seabed mining issues has proven difficult. The Conference began its ninth session, meeting Feb. 27 - Apr. 3, 1980, in New York City; deliberations continued July 28 - Aug. 29 in Geneva with the approval of a Draft Convention (Informal Text). A tenth session will be convened in New York City Mar. 9 - Apr. 17, 1981. Assuming the New York session solves several remaining issues, the Informal Text will then be turned into a draft treaty and opened for amendments. Upon final adoption, the treaty could be ready for signing in the fall of 1981.

On the domestic scene, U.S. ocean mining interests since 1971 have sought Federal licensure through appropriate legislation to allow prospecting, exploration, and development of nodules in the interim period before international agreement was reached and a law of the sea treaty ratified.

Legislation was considered in the 96th Congress in the House as H.R. 2759 and in the Senate as S. 493. Late in 1979 the Carter Administration reversed its decision to support the legislation in an attempt to synchronize congressional action with the deliberations of the U.N. Law of the Sea Conference. However, before adjournment of the first session, the Senate passed S. 493 on Dec. 14, 1979. After the Feb. 27 - Apr. 4, 1980, Law of the Sea Conference session was concluded in New York City, Ambassador Richardson in testimony before the House Committee on Foreign Affairs (Apr. 17) once again urged passage of a U.S. mining bill, this time before the summer negotiating session in Geneva. H.R. 2759 was signed into law (P.L. 96-283) June 28, 1980.

LEGISLATION

P.L. 96-283, H.R. 2759
Deep Seabed Mineral Resources Act -- Title I: Regulation of Exploration and Commercial Recovery by U.S. Citizens -- Disclaims extraterritorial sovereignty by the United States over deep seabeds. Prohibits any U.S. citizen from engaging in exploration or commercial recovery unless authorized: (1) under a license issued pursuant to this Act; (2) under a license issued by a reciprocating State; or (3) pursuant to an international agreement. Permits modifications or suspension of operations upon order of the Secretary of Commerce. Directs the Secretary to issue regulations for the implementation of this Act. Directs the Secretary to prepare an environmental impact statement with respect to the areas likely to be developed by

U.S. citizens. Specifies criteria for the size of areas of exploration or commercial recovery. Requires the Secretary to impose performance requirements upon licensees. Permits the Secretary to monitor exploration or commercial recovery operations. Permits the President to designate "reciprocating states" as defined by this Act.

Title II: Transition to International Agreement - Declares the intent of Congress regarding any international seabed agreements to which the United States may become a party to be: (1) to provide reasonable access to the deep seabed mineral resources for U.S. citizens; and (2) to recognize certain continuing seabed mining operations prior to any such international agreement. Sets forth the effect upon specified provisions of this Act resulting from subsequent international agreements. Title III: Civil Penalties, Criminal Offenses, and Miscellaneous Provisions - Makes unlawful violations of this Act. Establishes civil and criminal penalties for such violations. Directs the Secretary of Commerce to enforce this Act. Makes vessels in violation of this Act liable in rem for such violation. Title IV: Tax - Deep Seabed Hard Mineral Removal Tax Act of 1978 -- Amends the Internal Revenue Code of 1954 to impose a tax on the removal of hard mineral resources from the deep seabed. Establishes in the U.S. Treasury a Deep Seabed Revenue Sharing Trust Fund.

The House passed H.R. 2759 on June 9, 1980. On June 23 the Senate passed H.R. 2759 with amendments and returned the bill to the House. On June 25 the House agreed to the Senate amendments clearing the measure for the President, who, on June 28, 1980, signed H.R. 2759 into law (P.L. 96-283).

Justus, John R.
IB74024

MLC-100

PROTECTION OF PRIME AGRICULTURAL LANDS

...cumulative, long-term impact...N/A

Issues: Is congressional action needed to help States and localities protect high-quality agricultural land from conversion to other uses, and to minimize the adverse impact of Federal actions on farmland?

Background: Concern is mounting about the cumulative, long-term impact of the conversion of high-quality agricultural land to non-agricultural uses, such as housing subdivisions, water reservoirs, energy development, and highways. In the past, such conversion was considered a planning problem on the urban fringe, not an agricultural production problem. Now, however, domestic and world demand for agricultural products is growing, and yields per acre have leveled off. Some capacity may be significantly affected if such conversion continues indiscriminately. A recent survey by the U.S. Department of Agriculture's Soil Conservation Service concluded that about 24 million acres of rural land (an area about the size of Indiana) had been converted between 1967 and 1975. About half this acreage was either cropland or high-quality potential cropland. Major reasons for concern about agricultural land conversion -- concern which is by no means shared by all agricultural experts -- include the high value of domestic agricultural products in world trade and increasing world demand for U.S. food. At the same time, new data indicate that our reserves of potential cropland are less than had been thought and that conversion pressures are mounting.

Many States and a few localities have considered farmland loss to be a significant enough problem to adopt farmland protection programs involving a variety of techniques such as differential tax assessment, land use control, purchase or transfer of development rights, and agricultural districting. Those favoring congressional action feel that farmland loss is a nationally significant problem that justifies Federal involvement. Opponents argue that Federal assistance is not needed or desirable, is too costly, and that it could jeopardize traditional State and local authority to control the use of land. The U.S. Department of Agriculture and Council on Environmental Quality have initiated the National Agricultural Land Study with the cooperation of 10 other Federal agencies. This group will examine the nature and impact of conversion, and will recommend administrative and legislative actions in a report to be completed in January 1981.

Legislation introduced during the 96th Congress received no floor action. However, the issue continues to be of congressional interest; House staff is already considering a number of alternative approaches to the issue in anticipation of the 97th Congress.

Zinn, Jeffrey

MLC-101

WATER RESOURCES

...Administration maintained efforts begun in 95th Congress...

While the traditional areas of water project authorization and appropriation continued in the 96th Congress, the Carter Administration maintained efforts begun in the 95th Congress to reform the process of water resources development. The Administration attempted to break the so-called pork barrel politics of water resources development and to encourage funding only what it considered the most worthy projects.

Much early Carter Administration activity focused on reviewing controversial water projects and recommending their continuation or deletion. The 95th Congress, while initially somewhat in agreement with

Administration policy towards water projects, had sought not only to revive many of the projects the President recommended be deleted, but also to fund new projects.

In the 96th Congress, the Carter Administration continued to review water projects, recommending the end of some, as well as an investigation of the feasibility of others. The authorization and appropriations bills have been the focus of decisions on controversial projects such as the Tellico and Dickey-Lincoln Dams, and the Tennessee Tambigbee Waterway. Other congressional measures, consistent with President Carter's water policy initiatives of 1977, included bills restructuring the Water Resources Council to provide an independent review function for water projects, and a bill to amend water project cost-sharing legislation.

Reclamation reform was another area that received considerable attention in the 96th Congress. This activity was in response to a 1976 lawsuit against the Interior Department's Water and Power Resources Service, which allegedly had failed to implement a system of family farms required by the 1902 Reclamation Act. Implementation of a national dam safety program, a concern receiving some attention in the 95th Congress, was also an issue in the 96th Congress. The augmentation of hydroelectric power potential at existing sites, streambank erosion control and shoreline protection, flood control, and Colorado River salinity control were other areas of developing concern in the 96th Congress.

For further information on these water resources issue, please see the following issue briefs: IB78073 -- Water Resources Development: Administration Reform Efforts; IB77123 -- Dam Safety; IB78002 -- Acreage Limitation Controversy; IB78035 -- Small-scale Hydroelectric Development; IB77072 -- Water and Energy Conservation in Irrigated Agriculture; IB78039 -- Rural Water Systems: Options for Change; and IB79055 -- Water Resources Development: Cost-Sharing Options for Federal Projects.

LEGISLATION

WATER RESOURCES DEVELOPMENT

P.L. 96-69, H.R. 4388

First session water project appropriations for water development agencies for FY80. Introduced June 7, 1979. Reported from Committee on Appropriations (H.Rept. 96-243) June 7. Passed House, amended, June 18. Reported to Senate from Committee on Appropriations with amendment (S.Rept. 96-242) July 12. Passed Senate, amended, July 18. Conference report filed (H.Rept. 96-388) July 25. House agreed to conference report August 1. Senate agreed to conference report Sept. 10, 1979. Enacted into law Sept. 25, 1979.

P.L. 96-367, H.R. 7598

Second session water project appropriations for water development agencies for FY81. Introduced June 16, 1980; referred to Committee on Appropriations. Reported (H.Rept. 96-1093)to House. Measure passed House June 25, 1980. Reported to Senate Sept. 5, 1980 (S.Rept. 96-927). Measure passed Senate Sept. 10, 1980. Conference report filed in House Sept. 22, 1980 (H.Rept. 96-1366). Signed into law Oct. 1, 1980.

P.L. 96-375

Authorizes the Secretary of the Interior to engage in feasibility studies of powerplant and water supply projects in the West. Introduced Sept. 13, 1979. Reported to House from Committee on Interior and Insular Affairs (H.Rept. 96-710). Measure passed House Feb. 5, 1980. Reported to Senate from Committee on Energy and Natural Resources (S.Rept. 96-890). Measure passed Senate Sept. 17, 1980. Signed into law Oct. 3, 1980.

H.R. 4788 (Roberts et al.)

Authorizes the Secretary of the Army, through the Chief of Engineers, to proceed with various flood control, navigation, water supply, and other water resources development projects. Directs the Secretary to submit feasibility reports on various water resource development projects. Modifies various existing water resource development projects. Revises the financing of specified projects. Provides for congressional veto of water resource development rules and regulations. Terminates specified projects. Introduced July 13, 1979; referred to Committee on Public Works and Transportation. Reported with amendment (H.Rept. 96-508) Oct. 10, 1979. Measure passed House Feb. 5, 1980.

H.R. 7590

Second session water projects appropriation bill. Introduced June 16, 1980. Reported to House (H. Rept. 96-1093) from Committee on Appropriations. Measure passed House, amended, June 25, 1980.

RECLAMATION REFORM Feb. 13, 1980.

S. 14 (Church et al.)

Replaces the existing acreage limitation of 160 acres of reclaimed land per individual with a maximum farm size of 1,280 acres owned or leased in any combination by 25 or fewer persons. Abolishes the residency requirement for qualified recipients. Introduced Jan. 15, 1979; referred to Committee on Energy and Natural Resources. Reported with amendment (S.Rept. 96-235) July 6. Passed Senate, amended, Sept. 14. Referred to House Committee on Interior and Insular Affairs Sept. 18, 1979.

COLORADO RIVER SALINITY CONTROL

P.L. 96-336, S. 496

Amends the Colorado River Basin Salinity Control Act to provide for the power and energy requirements of the desalting plant. Sets forth provisions for the mitigation of fish and wildlife habitat losses. Authorizes the Secretary of the Interior to enter into contracts for the delivery of water to U.S. municipal, industrial, and irrigation entities. Introduced Feb. 26, 1979; referred to Committee on Energy and Natural Resources. Reported with amendment (S.Rept. 96-181) May 15. Passed Senate, amended, June 4, 1979. House agreed to Senate amendments Aug. 21, 1980. Measure signed into law Sept. 4, 1980.

Simmons, Malcolm

SCIENCE AND TECHNOLOGY

MLC-102

AQUACULTURE: STATUS OF TECHNOLOGY AND FUTURE PROSPECTS

...erosion of the fisheries base...

Aquaculture, the cultivation of aquatic plants and animals, which is practiced all over the world, takes the form of hatchery-based restocking, sea ranching, and various types of freshwater culture. At present, worldwide output from aquaculture, having doubled in the past 5 years, amounts to approximately 6 million metric tons or about 10% of world fisheries production. In the United States, however, output from aquaculture amounts to only about 2% of the total consumption of fisheries products.

Renewed interest in aquaculture is based on the widely held apprehension that global over-fishing and water pollution will erode the fisheries base; the realization that coastal, estuarine, and inland waters constitute the only areas which can be controlled effectively for aquaculture purposes; and the growing realization that edible aquatic organisms are products of a system which, like agriculture, can be planned and managed at every level of production.

Thus far, several factors, including market forces, facility development costs, and deficiencies in support technologies are thought to have inhibited the development of a comprehensive aquaculture program in the United States. Several pieces of legislation have been introduced to promote such a program. A total of 11 bills was introduced during the 94th Congress. None passed. Eleven pieces of legislation were introduced during the 95th Congress. On the Senate side, P.L. 95-113 (the Food and Agriculture Act of 1977) contains provisions in Title 15 for aquaculture development. H.R. 9370, the National Aquaculture Organic Act of 1977, passed the House in February 1978, and the Senate on Oct. 2, 1978. However, the bill was pocket vetoed. The bill was reintroduced in the 96th Congress as H.R. 20, the National Aquaculture Act of 1979. Companion bills introduced in the Senate were S. 1408 and S. 1650. S. 1650 passed the Senate Apr. 30, 1980. It passed the House, as amended, Sept. 8, 1980, in lieu of H.R. 20. The Senate concurred with the House amendment to S. 1650 on Sept. 11, 1980. The bill was signed into law (P.L. 96-362) Sept. 26, 1980.

LEGISLATION

P.L. 96-362, S. 1650

National Aquaculture Act of 1979. Provides for the development of aquaculture in the United States, and for other purposes. Establishes information services for aquaculture. Directs a study of the capital requirements for aquaculture development and creation of a plan for action based on those findings. Requires a study of regulatory constraints on aquaculture industry and formulation of a plan for action based on these findings. Authorizes a total of $70 million for FY81-FY83 to be divided among the Depts. of Agriculture, Commerce, and the Interior. Directs these three Depts. to prepare a National Aquaculture Development Plan. Introduced Aug. 2, 1979; referred to Committee on Agriculture, Nutrition, and Forestry and Committee on Commerce, Science, and Transportation. Joint hearings held Nov. 14, 1979. Committees jointly reported S. 1650 on Apr. 23, 1980 (S.Rept. 96-660). Passed by Senate on Apr. 30, 1980. Passed House, amended, Sept. 8, in lieu of H.R. 20. Senate concurred with House amendment Sept. 11, 1980. Signed by President on Sept. 26, 1980.

P.L. 96-365, S. 1125

Improves and expands the Federal Crop Insurance Program by amendment to allow insurance of aquacultural operations, and for other purposes. S. 1125 was introduced on May 14, 1979; referred to Committee on Agriculture, Nutrition, and Forestry. Reported (S.Rept. 96-254) on July 20, with amendments. Passed Senate (amended) on Sept. 10. Passed House (amended) on Feb. 13, 1980, in lieu of H.R. 4119. House agreed to the request for a conference on Apr. 1. Conference report (H.Rept. 96-1272) issued on Aug. 28. Senate adopted conference report on Sept. 8. House adopted conference report on Sept. 17. Signed by President on Sept. 29, 1980.

Dodge, Christopher H.
IB77099

MLC-103

GOVERNMENT PATENT POLICY: THE OWNERSHIP OF INVENTIONS FROM FEDERALLY FUNDED R&D

...promotes scientific progress or stifles innovation...

Two major issues have emerged in Government patent policy: (1) the ownership of inventions resulting from federally funded R&D; and (2) the general revision of the U.S. patent laws which are codified as Title 35 of the U.S. Code.

In regard to the first issue, a major subissue is whether the existing Government patent policy promotes the progress of science, a power given to the Congress by the U.S. Constitution; or whether, in fact, Government patent policy has stifled invention and innovation. In general, the Government's policy has been to retain title and rights to inventions resulting from federally funded research and development (generally about 50% of the Nation's entire R&D expenditure) made either by Government contractors or grantees or by in-house Government employees. The U.S. Government holds title to about 28,000 such inventions, but only about 5% of these have been used.

A second major subissue regarding the ownership of inventions resulting from federally funded R&D is whether a comprehensive, Government-wide patent policy is required. A uniform Federal patent policy does not exist; rather, patent policies have been developed and instituted on an agency-by-agency basis. [See Section III -- Statutory Patent Provisions of Individual Departments and Agencies, published in a Committee print for the House Committee on Science and Technology/Subcommittee on Domestic and International Scientific Planning and Analyses, 1976, pp. 61-85.]

In the 96th Congress a number of bills were introduced, and hearings were held in several committees. A bill (H.R. 5715) similar to the "Thornton bill" of the 95th Congress was introduced and referred jointly to the House Committees on the Judiciary and Science and Technology, and a hearing was held in the latter committee. However, the bill that was finally enacted into law (H.R. 6933 as amended) was a combination of sections of H.R. 6933, as orginally introduced, dealing with prior art citations by the Patent and Trademark Office and reexamination of patents, minus its original section on uniform Government patent policy, plus a new section on the "Computer Software Copyright Act of 1980" (similar to H.R. 6934), plus most of S. 414, the "University and Small Business Patent Procedures Act." H.R. 6933, as originally introduced, was referred to the House Committees on the Judiciary and Government Operations, each of which reported the bill to the House which passed it on Nov. 17, 1980. On Nov. 20, 1980, the Senate passed H.R. 6933 by amending it to include most of S. 414 in lieu of section 6 of H.R. 6933, the section on Government patent policy. S. 414 was orginally referred to the Senate Committee on the Judiciary and passed the Senate on Apr. 23, 1980, by a vote of 91 to 4. On Nov. 21, 1980, the House agreed to the Senate's amendments by unanimous vote, clearing it for the President. The bill was signed into law (P.L. 96-517) on Dec. 12, 1980. The activities of the 96th Congress thus resulted in a patent act revising certain parts of the U.S. patent laws (Title 35 of the U.S. Code) and establishing uniform Federal patent procedures for small businesses and nonprofit organizations, but not a comprehensive Government patent policy applicable to all inventions resulting from federally funded research and development.

The second major issue of Government patent policy is the general revision of the U.S. patent laws, which are codified as Title 35 of the U.S. Code. Congress has shown interest in this subject since 1952. Although many bills have been introduced and hearings held since that time, no general patent law revision has been enacted; however, a number of bills on specific aspects of patent law have been enacted. The most recent bill with significant support introduced on the general revision of the patent laws was S. 2255 of the 94th Congress. S. 2255 contained no specific sections on the ownership of inventions resulting from federally funded R&D. In the 96th Congress, H.R. 6933, as amended, and signed into law (P.L. 96-517) on Dec. 12, 1980, amends Title 35 of the U.S. Code by adding a new chapter 30 dealing with prior art citations to the Patent and Trademark Office and reexamination of patents.

LEGISLATION

P.L. 96-517, H.R. 6933

Amends the patent and trademark laws. Includes a section to amend the patent laws similar in some ways to S. 2446 (see below), plus a section on Government Patent Policy covering contract inventions, inventions of Federal employees, and licensing of federally owned inventions. Introduced Mar. 26, 1980; referred to Committee on the Judiciary. The Subcommittee on Courts, Civil Liberties, and Administration of Justice held a hearing on the bill Apr. 3, 1980. (Apr. 15, 17, 22, 24; May 8, 1980). On June 25, 1980, the subcommittee considered the bill and held a mark-up session. On July 24, 1980, the subcommittee forwarded the bill to the full committee. On Aug. 20, 1980, the Committee held a Mark-up session and incorporated provisions of H.R. 6934, the "Computer Software Copyright Act of 1980" as an amendment to H.R. 6933. On Sept. 9, 1980, committee reported H.R. 6933 to the House (H.Rept. 96-1307, Part I) and the bill was referred to the Committee on Government Operations for a period not later than Sept. 26, 1980. On Sept. 16 and 17, 1980, the House Committee on Government Operations, Subcommittee on Legislation and National Security, held a hearing, on H.R. 6933. On Sept. 18, 1980, the Subcommittee held a mark-up session on the bill and forwarded it to the full committee, as amended. On Sept. 23, 1980, the Committee on Government Operations held a mark-up session on H.R. 6933 and reported it to the House, with amendments (H.Rept. 96-1307, Part 2). On Nov. 17, 1980, H.R. 6933 was called up by the House under suspension of the rules and passed the House, as amended, by a voice vote. Passed Senate Nov. 20, 1980, with an amendment in effect substituting S. 414 for section 6 (thus establishing a Government patent policy only for small businesses and nonprofit organizations) and an amendment to the title by voice vote. On Nov. 21, 1980, the House agreed to the Senate's amendments by unanimous vote, clearing it for the White House. Measure was signed into law Dec. 12, 1980.

S. 414 (Bayh, Dole)/H.R. 2414 (Rodino)/H.R. 5343 (McDade)

The University and Small Business Patent Procedures Act. Amends Title 35 of the U.S. Code, establishes a uniform Federal patent procedure for small businesses and nonprofit organizations and creates a consistent policy and procedure concerning patentability of inventions made with Federal assistance. Introduced on Feb. 9, 1979; referred to Committee on the Judiciary. H.R. 2414 introduced Feb. 26, 1979; referred to the Committee on the Judiciary. Committee on the Judiciary held hearings on S. 414 on May 16 and June 6, 1979. On Dec. 12, 1979, S. 414 was reported favorably (S. Rept. 96-480). On Feb. 5, 1980, S. 414 was considered in the Senate and on Apr. 23, 1980, it passed the Senate with amendments by a yea-nay vote of 91-4. On Apr. 24, 1980, S. 414 was referred to the House Committee on the Judiciary and on May 5, 1980, referred to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which held hearings on the bill on May 8, 1980. This same subcommittee also held hearings on H.R. 2414 on Apr. 3, 15, 17, 22, 24 and on May 8, 1980, and held a mark-up session on Sept. 18, 1980. Most of S. 414 was substituted for Section 6 of H.R. 6933 and, as amended, H.R. 6933 passed the Senate on Nov. 20, 1980. The House agreed to the Senate's amendments on Nov. 21, 1980, and the measure was signed into law (P.L. 96-517) on Dec. 12, 1980.

Boesman, William C.
IB78057

MLC-104

INDUSTRIAL INNOVATION

...a major mechanism to increase U.S. productivity...

Technological innovation, the process by which industry generates new and improved products, involves idea generation, research, development, commercialization, and diffusion of the innovation throughout the economy. Utilization of new technologies and processes is the basis for increased productivity, generally leading to economic expansion.

In the international arena, certain nations, most notably Japan and West Germany, have made substantial gains on the U.S. position regarding productivity levels, balance of trade in R&D-intensive products, and research and development as a percentage of Gross National Product. In this context, innovation is a major mechanism to increase U.S. productivity, to expand the number of jobs available, and to improve the country's balance of payments. Economic growth is stimulated through the utilization of new processes and the manufacture of new products. Innovation also contributes to the resolution of national problems which are amenable to technological solutions.

On Oct. 31, 1979 President Carter transmitted to Congress a message in which he outlined various initiatives designed to retain the United States' "role as the world leader in industrial innovation." This message was the result of the Domestic Policy Review on Industrial Innovation, ordered by the President in May 1978 to identify and recommend Government activities to encourage increased industrial productivity and innovation. The policy measures proposed were in the areas of: enhancing the transfer of technical information; increasing technical knowledge; improving the patent system; clarifying antitrust policy; fostering the development of small innovative companies; opening Federal procurement to innovations; improving the regulatory system; facilitating labor/management adjustment to innovation; and maintaining a supportive environment for innovation. Some of these activities will require legislation, especially in the areas of patents, antitrust, budget authority for new programs, and funding for existing efforts.

The second major innovation activity undertaken by President Carter involved the Economic Revitalization Program announced on Aug. 28, 1980. This effort concentrated primarily on economic and tax proposals which were absent from the earlier industrial innovation initiatives. As introduced by President Carter, the economic program contained four objectives: (1) encouraging private investment and expanding public investment to revitalize America's economy; (2) creating a forward-looking partnership among Government, the private sector, and the public to deal with those national problems that only cooperation can solve; (3) assisting people and communities affected by industrial dislocation to make positive economic change; and (4) offsetting resing individual tax burdens in ways that do not rekindle inflation.

Congress also undertook various initiatives to establish and foster an environment in which innovation in the private sector can proceed. Since a broad range of policies affect innovation, several committees had jurisdiction in this area. Efforts were taken in both Houses to coordinate and cooperate across jurisdictional lines. The approach to innovation taken in the 96th Congress was also multifaceted and included the introduction of legislation designed to assist small business; to provide tax incentives for business activities in innovation; to restructure the patent process to encourage the commercialization and utilization of the results of federally funded research and development; to create programs to foster joint Federal/university/industry efforts at innovation and commercialization; and to reorganize present Federal institutions to promote technology and innovation. The passage of the Stevenson-Wydler Technology Innovation Act (P.L. 96-480) provided the legislative basis for many of the President's innovation initiatives, especially those dealing with the cooperative Generic Technology Centers and the Center for Technology Utilization at the Department of Commerce, and assistance to small business.

LEGISLATION

P.L. 96-302, S. 2698

Small Business Administration Authorizations. Title II, the Small Business Development Centers Act of 1980, amends the Small Business Act to authorize the Small Business Administration to make matching grants to State governments; regional units; State-chartered development, credit, or finance organizations; or public or private institutions of higher learning to defray 50% of the cost of developing and operating a small business development center program. These centers are to provide, among other things, assistance in technology exchange and development. Requires that NSF-supported innovation centers and NASA industrial application centers assist the small business development centers created under this Act. On May 7, 1980, the Committee on Small Business ordered reported an original measure. Original bill reported May 14, 1980 (H.Rept. 96-703). Passed Senate with amendments May 28, 1980. Passed House, amended, June 3, 1980. Conference report agreed to by Senate June 17, and agreed to by House June 19, 1980. Signed into law July 2, 1980.

P.L. 96-480, S. 1250

Stevenson-Wydler Technology Innovation Act of 1980. Promotes technological innovation for the achievement of U.S. economic, environmental, and social goals by: (1) creating organizations within the executive branch to study and stimulate technological innovation, including the Office of Industrial Technology in the Department of Commerce; (2) promoting innovation and development through the establishment of centers for industrial technology; (3) stimulating improved utilization of federally funded research and development by State and local government and the private sector; (4) creating a mechanism to award individuals and companies for outstanding contributions to innovation; and (5) instituting an exchange program of scientific and technical personnel between universities, industry, and Federal laboratories.

Bill was introduced May 24, 1979; referred to Committee on Commerce, Science and Transportation. Subcommittee on Science, Technology, and Space held hearings June 21, 27 and Nov. 21, 1979. Hearings held by the Subcommittee on Science, Technology, and Space June 21, June 27, and Nov. 21, 1979. Reported favorably from committee on Apr. 29, 1980. Passed Senate, with amendments, May 28, 1980, and referred to House Science and Technology Committee on May 30, 1980. Subcommittee mark-up was held on June 16, 1980. Bill reported favorably with amendments. Full committee mark-up held July 2. Measure reported favorably, with amendments (H.Rept. 96-1199) July 9, 1980. Passed House, amended, Sept. 8, 1980. Senate agreed to House amendments with amendments on Sept. 26. House agreed to Senate amendments on Oct. 1. Measure signed into law Oct. 21, 1980.

Small Business

H.R. 5607 (Smith et al.)

Small Business Innovation Act. Amends the Small Business Act to require that Federal agencies which conduct research and development programs of a specified size establish and administer a Small Business Innovation Research (SBIR) program. Directs the Small Business Administration to operate a program to provide qualified small businesses with information on participation in SBIR activities. Introduced Oct. 16, 1979; referred to Committees on the Judiciary, on Small Business, and on Ways and Means. Hearings held by the latter on Nov. 13, 1979. Hearings held by Committee on Small Business Mar. 4, 19, 20, 27; and Apr. 1, 1980. Reported, amended, May 16, 1980 (H.Rept. 96-1006).

S. 2749 (Nelson et al.)

Small Business Innovation Act of 1980. Declares that it is in the national interest to strengthen the innovative abilities of small businesses and to augment their participation in Federal research and development contracting. Establishes a Federal program to assist innovative small businesses in increasing their share of Federal R&D contracts. Directs that a certain specified amount of research and development contracts and subcontracts be awarded to small businesses. Sets up a small business innovation research program in each Federal agency with an annual R&D budget in excess of $100 million. On May 13, 1980, Committee on Small Business was ordered to report an original measure in lieu of S. 1850. S. 2749 reported to Senate May 21, 1980.

Patents

P.L. 96-517, H.R. 6933

Amends the patent and trademark laws. This bill, favored by the Carter Administration, sets forth Government patent policy with respect to contract inventions, inventions of Federal employees, and the licensing of federally owned inventions. Allows for reexamination of patents.

Bill was introduced Mar. 26, 1980; referred to Committee on the Judiciary. The Subcommittee on Courts, Civil Liberties, and Administration of Justice held hearings Apr. 3,15,17,22,-24, and May 8, 1980). On June 25, 1980, the subcommittee considered the bill and held a mark-up session. On July 24, 1980, the subcommittee forwarded the bill to the full committee. On Aug. 20, 1980, the Committee held a mark-up session and incorporated provisions of H.R. 6934, the "Computer Software Copyright Act of 1980" as an amendment to H.R. 6933. On Sept. 9, 1980, the Committee reported H.R. 6933 to the House (H.Rept. 96-1307, Part I) and the bill was referred to the Committee on Government Operations for a period not later than Sept. 26, 1980. On Sept. 16, 1980, the House Committee on Government Operations, Subcommittee on Legislation and National Security, held a hearing, on H.R. 6933. On Sept. 18, 1980, the Subcommittee held a mark-up session on the bill and forwarded it to the full committee, as amended. On Sept. 23, 1980, the Committee on Government Operations held a mark-up session on H.R. 6933 and reported it to the House, with amendments (H.Rept. 96-1307, Part 2). On Nov. 17, 1980, H.R. 6933 was called up by the House under suspension of the rules and passed the House, as amended, by a voice vote. Passed Senate Nov. 20, 1980, with an amendment and an amendment to the Title by voice vote. On Nov. 21, 1980, the House agreed to the Senate's amendment by unanimous vote, clearing it for the White House. Measure signed into law Dec. 12, 1980.

Industrial Technology Centers

H.R. 4672 (Brown, of Ca.)
National Science and Technology Innovation Act of 1979. Directs the Secretary of Commerce to establish and maintain an Office of Industrial Technology to enhance technological innovation for the improvement of the economic, environmental, and social well-being of the United States. Requires the Director of the Office and the National Science Foundation to provide assistance for the establishment of Centers of Industrial Technology whose activities shall include: (1) research supportive of technology and industrial innovation, including cooperative industry-university basic and applied research; (2) assistance in the evaluation and development of new technological ideas supportive of industrial innovation and new business ventures; (3) technological assistance and advisory services to industry; and (4) curriculum development and instruction in invention, entrepreneurship, and industrial innovation. Centers will be affiliated with a university or nonprofit institution. Introduced June 28, 1979; referred to Committee on Science and Technology. Hearings held June 17, Aug. 1 and 7, 1979. Ideas incorporated into House version of S. 125 (P.L. 96-480).

Reorganization

H.R. 6910 (Brown)
National Technology Foundation Act of 1980. Creates a new, independent agency -- the National Technology Foundation -- to "promote the advance of technology, technological innovation, and the supply of technological manpower for the improvement of the economic, environmental, and social well-being of the United States." Among other functions, the Foundation would (1) assist in the establishment of Centers for Industrial Technology to enhance technological innovation through specific means; (2) determine the relationships of technological developments and international technology transfers to the productivity, employment, and world trade performance of the United States; (3) develop improved indicators of the state of technology; (4) determine the influence of economic conditions and Government policies on industrial innovation and the development of technology; (5) promote technology transfer from the Federal Government to private enterprise; and (6) support applied research in engineering and other disciplines as necessary in the national interest.

Introduced Mar. 25, 1980; referred to Committee on the Judiciary and Committee on Science and Technology. Hearings held by Science, Research, and Technology Subcommittee Sept. 9, 10, 16, 17, 18, 1980.

Schacht, Wendy, H.
IB80005

MLC-105

NATIONAL MATERIALS POLICY

...National Materials Policy Act signed into law...

The economies of all developed countries are heavily dependent upon materials. Each $10 million worth of materials put into the economy is estimated to support a quarter billion dollars in total economic activity. The United States is by far the largest consumer of materials, totally and per capita. This high level of consumption is based, in part, upon a working assumption that materials resources are inexhaustible. However, increasing U.S. dependence upon foreign producers for basic industrial raw materials has become a matter for concern. Periodic shortages of materials in the past have been exacerbated by increased worldwide demand for materials, lack of commensurate growth in productive capacity, lack of sufficient energy supplies required for the extraction and processing of materials, and periods during which prices were controlled. The benefits of widespread conservation of materials to assure optimum use and to minimize waste have become more clear. The perception of the need to recover and recycle a much larger proportion of materials currently discarded as solid waste has become widespread. Although recommendations differ as to what kind of mechanism might best deal with the above-listed problems, wide agreement exists on the need to consider them on a broader, more highly organized basis.

The call for an overall national materials policy was advanced as early as 1952, when President Truman appointed a President's Materials Policy Commission to study the problem. The recommendations of that Commission were not implemented, and in recent years, materials problems have become increasingly widespread and acute. Some of the major issues include: (a) maintaining a healthy materials-producing industry; (b) assuring adequate supplies at competitively established prices; (c) preventing the discharge of damaging waste materials into the environment; (d) avoiding unusual fluctuations in materials supply/demand relationships, materials costs, and materials production and supply patterns; (e) determining the advisability of attempting national self-sufficiency in basic industrial raw materials; (f) determining the ramifications of the Nation's increasing dependence upon imports of raw materials from abroad, and; (g) facing the prospect of possible materials cartels.

The National Materials and Minerals Policy Act of 1980, P.L. 96-479, enacted on Oct. 21, 1980, attempts to address many of these issues by requiring that the President devise a suitable mechanism for dealing with materials-related problems at the Executive Office/Cabinet level. Additionally, the Act calls for various initiatives on the part of the Secretaries of Commerce, Defense, and the Interior and the Director of the Office of Science and Technology Policy to consider ways of solving a variety of meterials-related problems.

During the 96th Congress, more than 125 bills related to materials, either in whole or in part, were introduced, as follows: materials management, 39; resource recovery, recycling, and reuse of materials, 7; materials availability, 43; materials stockpiles, 14; and management and control of hazardous and toxic materials, 35. An additional 225 bills, similar to the 125 mentioned above, were also introduced for a total of more than 300 bills. Of these, more than ten were enacted into public law.

LEGISLATION

National Materials Policy

P.L. 96-479, H.R. 2743

The National Materials Policy Act of 1980. Provides for a national policy for materials science and technology and strengthens the materials research and development capability and performance of the United States. Introduced Mar. 8, 1979; referred to Committee on Science and Technology. Hearings held on June 25,26,28, and Oct. 23 and 30, 1979. Reported to House, amended, Nov. 29 (H.Rept. 96-672). Passed by the House, amended, Dec. 4, 1979. Referred to the Senate Committee on Commerce, Science and Transportation. Hearings held June 27 and 30 and July 1 and 2, 1980. Reported to the Senate, amended, Aug. 13, 1980 (S.Rept. 96-897). Referred to the Senate Committee on Energy and Natural Resources Aug. 13, 1980. Hearing held on July 31, 1980. Reported to the Senate Sept. 12, 1980. amended (S.Rept. 96-937). Passed Senate, amended, Oct. 1, 1980. Senate amendments agreed to by the House, Oct. 2, 1980. Signed by the President Oct. 21, 1980.

National Materials Stockpiles

P.L. 96-41, H.R. 2154

Strategic and Critical Materials Stock Piling Revision Act of 1979. Requires that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund. H.R. 2154 introduced Feb. 15, 1979; referred to the Committee on Armed Forces. Hearing held on H.R. 2154 on Feb. 23, 1979; House passed H.R. 2154 on Mar. 19, 1979. [H.R. 2154 is a revised version of H.R.22.] S. 290 introduced Jan. 31, 1979; referred to Committee on Armed Services. Hearing held on S. 290 by Subcommittee on Military Construction and Stockpiles on Mar. 19, 1979. H.R. 2154 passed Senate, amended, on June 13, 1979. Signed by President into law (P.L. 96-41) on July 30, 1979.

P.L. 96-175, H.R. 595

Authorizes the disposal of 35,000 long tons of tin in the national and supplemental stockpiles. House passed bill, amended, Apr. 3, 1979. Senate passed bill Oct. 16. Measure went to conference and was signed into public law (P.L. 96-175) Dec. 29, 1979.

Bullis, Harold
IB74094

MLC-106

SPACE SHUTTLE

...first orbiter is completed...

The major NASA program of the post-Apollo era is the development of a space transportation system (STS) based on a reusable space launch vehicle. This shuttle consists of a reusable manned orbiter vehicle, an expendable propellant tank, and two recoverable, reusable solid-fueled booster rockets. The shuttle will be launched as a rocket into low-Earth orbit, and, after a stay of 7 days, will return to Earth and land horizontally like an airplane. It will be capable of carrying 29,500 kilograms (65,000 pounds) of payload to low-Earth orbit in its large cargo bay. The first flight of the shuttle is planned for March 1981.

Appropriations for the space shuttle research and development program have grown from $78.5 million in FY71 to $1.873 billion in FY81.

Early in the 96th Congress, second session, NASA requested a shuttle supplemental appropriation of $300 million for FY80 (in addition to the $1.586 billion appropriated for FY80) appropriations of $1.873 billion for the shuttle development and production program, and $809.5 million for space flight operations.

The space flight operations request was reduced by $42 million in the government-wide FY81 budget revisions which were made public in March 1980. The shuttle development and production programs did not lose any funding in the March 1980 budget revisions.

NASA authorizations for FY81 of $1.873 billion for the shuttle development and production program, and $779.5 million for space flight operations were enacted (P.L. 96-316). Appropriations of $1.873 billion for the shuttle development and production program and $762.5 million for space flight operations were passed by the Congress for FY81 (H.R.7631, awaits President Carter's signature).

In July 1980, the FY80 supplemental appropriation bill was enacted (P.L. 96-304). This measure added $285 million to NASA's funding for FY80 for the shuttle, instead of the $300 million NASA had requested.

Military construction legislation appropriating $76.2 million for shuttle construction at Cape Canaveral Air Force Station, Florida and Vandenberg Air Force Base, California was enacted (P.L. 96-436). However, the legislation contained a provision that no part of the shuttle construction funds could be obligated for construction at Vandenberg until the shuttle orbiter had been rolled out from the Orbiter Processing Facility at Kennedy Space Center (this event occurred on Nov. 24, 1980, thus freeing the appropriated money). Military construction authorization legislation was enacted, authorizing $97.2 million ($16.7 million for Port Hueneme; $22.3 million for Cape Canaveral; and $58.2 million for Vandenberg).

Authorization legislation for military procurement and research, development, test and evaluation (RDT&E), as enacted, authorized $389.8 million for the shuttle for FY81 (P.L. 96-342). Appropriations of $365.2 million for DOD shuttle-related procurement and RDT&E passed the Congress (H.R.8105) and await the President's signature.

During the 96th Congress, attention-focused on shuttle funding shortfalls and schedule delays, NASA management of the shuttle development program, the thermal protection system for the shuttle orbiter, pricing of shuttle services, operational management of the space transportation system, DOD involvement in the shuttle program, transition from expendable launch vehicles to the shuttle, and utilization of the shuttle.

LEGISLATION

P.L. 96-48, H.R. 1786

National Aeronautics and Space Administration Authorization Act, 1980. Authorized appropriations to NASA for FY80 in the amount of $4.961 billion, including $1.586 billion for the space shuttle program. The shuttle authorization includes a $220 million budget amendment. Signed on Aug. 8, 1979.

P.L. 96-103, H.R. 4394

Made appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for FY80.

Included appropriations of $4.9 billion to NASA for FY80, the $1.586 billion for the shuttle. The shuttle appropriation included the $220 million budget amendment. Signed into law Nov. 5, 1979.

P.L. 96-304, H.R. 7542

Made supplemental appropriations for FY80 and rescinded certain budget authority. Made supplemental appropriations of $285 million to NASA for FY80 for the shuttle development program. Signed into law July 8, 1980 (P.L. 96-304).

P.L. 96-316, S. 2240

Authorized appropriations to NASA for FY81. Authorized $1.873 billion for the shuttle development and production program and $779.5 million for space flight operations. Signed into law on July 30, 1980.

H.R. 6412 (Fuqua, by request)

Authorized a supplemental appropriation of $300 million for FY80 to NASA for the shuttle development program. Introduced Feb. 5, 1980; referred to Committee on Science and Technology. Reported favorably (H.Rept. 96-898) Apr. 22,1980.

H.R. 7631 (Boland)

Appropriations for FY81 for NASA, including $1.873 billion for space shuttle. Reported on July 19, (H.Rept. 96-1114) recommending deferral of the total NASA research and development budget until final action on the 1980 supplemental appropriation. Passed the House on July 28 without including any funds for NASA research and development programs. Reported by Senate Appropriations Committee on Sept. 4 (S.Rept. 96-926) including all requested funding for shuttle. Passed the Senate on Sept. 23, 1980. Conference report filed Nov. 21 (H.Rept. 96-1476). House agreed to conference report on Dec. 2, Senate on Dec. 3, 1980. Awaits Presidential signature.

S. 2238 (Cannon by request, et al.)

Authorized a supplemental appropriation of $300 million for FY80 to NASA for the shuttle development program. Introduced Jan. 30, 1980; referred to the Committee on Commerce, Science, and Transportation. Reported (S.Rept. 96-694) on May 12. Passed Senate May 30, 1980.

P.L. 96-125, S. 1319

Military Construction Authorization Act, 1980. Authorized $78.2 million for construction of Air Force space shuttle facilities at Johnson Space Center and Vandenberg Air Force Base. Signed into law Nov. 26, 1980.

P.L. 96-130, H.R. 4391

Military Construction Appropriations, FY80. Appropriated $74.2 million for shuttle-related military construction for FY80 ($8.4 million for JSC and $65.8 million for VAFB including thrust augmentation funds). The measure was signed into law Nov. 30, 1979.

P.L. 96-342, H.R. 6974

Authorizes appropriations for FY81 for military procurement and for military research development, test, and evaluation. Authorizes $389.8 million for DOD shuttle-related activities for FY81 under the military procurement and military RDT&E budgets. Signed into law Aug. 27, 1980.

P.L. 96-418, H.R. 7301

Authorizes certain construction at military installations for FY81. Includes $97.2 million for DOD shuttle related construction for FY81 ($58.2 million for Vandenberg Air Force Base; $16.7 million for Port Hueneme, and $22.3 million for Cape Canaveral). Measure was approved Oct. 10, 1980.

P.L. 96-436, H.R. 7592

Makes appropriations for military construction for the Department of Defense for FY81, including shuttle construction. prohibiting expenditure of FY81 funds until successful completion of the first shuttle flight. Passed Senate on Sept. 17. Conferees reported on Sept. 29 (H.Rept. 96-1433). Appropriates $76.2 million for shuttle construction at Vandenberg Air Force Base and Cape Canaveral (no funds for Port Hueneme). but says that none of the funds can be expended until rollout of the Orbiter 102 from the Orbiter Processing Facility at the Kennedy Space Center. (This did take place on Nov. 24, 1980). Signed into law on Oct. 13, 1980.

H.R. 8105 (Addabbo)

Makes appropriations for the Department of Defense for FY81. Includes $246.6 million for space shuttle activities under the research, development, test and evaluation budget and $118.6 million for the shuttle under the procurement budget. The conference agreement on the measure passed both Houses on Dec. 5, 1980, clearing the measure for President Carter.

Luxenberg, Barbara A.
IB73019

SOCIAL SERVICES AND INCOME MAINTENANCE

MLC-107

AID TO FAMILIES WITH DEPENDENT CHILDREN: STRUCTURAL CHANGE

...enrollment soars from April to June 1980...

The Aid to Families with Dependent Children (AFDC) program, established under the Social Security Act, provides Federal funds to the States for cash payments to fatherless families and families with partially employed, unemployed, or incapacitated fathers. The States determine the benefit levels, but the Federal Government pays at least 50% of each State's cost. The issue of enlarging and federalizing family welfare, which had been proposed by the Family Assistance Plan (FAP) in 1969-72, was renewed by the introduction of several measures in the 95th Congress, including the "Better Jobs and Income Program" (BJIP) of President Carter, which failed to reach the floor of either House of Congress, and by Mr. Carter's 1979 cash-jobs family welfare reform program, the cash part of which won House approval (222-184) on Nov. 7, 1979. As adopted by the House, the Social Welfare Reform Amendments of 1979 (H.R. 4904) would have established an income floor for all families with children at 65% of the poverty threshold, paid in AFDC cash plus food stamps. The bill's income floor would have been approximately $4,740 per year in 1979 dollars for a family of four, of which about $3,168 would be AFDC cash. All States would have been required to observe this floor and to offer its benefits to intact families (with an "unemployed" parent) as well as to single-parent families. However, on Mar. 14, 1980, as part of his anti-inflation program, the President withdrew a request for $800 million in his FY81 budget for features of the House-passed bill scheduled for early adoption, and he later said he would postpone for one year the effective date of the jobs component of his welfare program.

Mr. Carter's 1979 jobs proposal, the Work and Training Opportunities Act of 1979 (H.R. 4425/S. 1312), would have created an estimated 400,000 jobs and training positions for principal earners in AFDC-eligible families and would have reserved another 200,000 CETA jobs for such families. However, the only actions taken on this measure were a hearing and two markup sessions by a House Education and Labor Subcommittee.

The President's 1979 welfare program was much less sweeping and costly than his 1977 "Better Jobs and Income Program." BJIP would have abolished AFDC, the Supplemental Security Income program for the aged, blind, and disabled, and food stamps, replacing these programs with a cash income floor for all Americans. The proposal also would have created 1.4 million jobs for parents deemed employable.

The 1969-72 FAP debate and the 1977-78 debate over BJIP publicized many issues in AFDC, including these: wide variations in benefit levels; discrimination against mothers who already are employed and against fully employed fathers; work disincentives from simultaneous participation in AFDC and other benefit programs; lack of coordination among the numerous benefit programs; complexity; and cost.

AFDC enrollment declined in FY79 for the fourth straight year, averaging 10,321,443 per month, down 1 million from the FY76 monthly average, which reached a record-high peak. However, in June 1980, AFDC family enrollment soared to a new all-time high of 3,672,033, up 5.5% from the June 1979 figure. These families totaled 10,657,457 individuals, up 4.3% from the recipient count of a year earlier. Of these families, 151,435 had unemployed parents, up 36.2% from the year-earlier count. Benefits averaged $271 per family and totaled $995.3 million, an annual rate of $11.9 billions and up 11.4% from the year-earlier annual spending rate.

LEGISLATION

P.L. 96-178, H.R. 3091

Extends authority for Federal matching funds for child support services to non-AFDC families through Mar. 31, 1980 and retroactively to Oct. 1, 1978; for the same period extends authority to use Title XX social service funds for hiring AFDC mothers as child care workers. Enacted Jan. 2, 1980. Provision made permanent by P.L. 96-272.

P.L. 96-265, H.R. 3236

Disability Insurance Amendments of 1979. Introduced Mar. 27, 1979; referred to Ways and Means Committee. Passed House Sept. 6, 1979; referred to Senate Committee on Finance. Amended by committee to include its amendments to H.R. 3463, among which were nine AFDC provisions, embodying S. 1669, S. 1670 and S. 1672 through S. 1678. Conferees filed a report (H.Rept. 96-944) on May 13, 1980, agreeing to all but one of the AFDC provisions. The eight provisions accepted by conferees consisted of five child support provisions (requirement for State reports; increased funding for computer systems in programs of child support and paternity determination; Federal funding for certain court expenses; authorization for IRS collection of delinquent child support for non-AFDC families; revised rule about access to wage information for child support purposes); a new rule requiring job search in WIN; extra Federal funding for certain mechanized claims processing and information retrieval; and new rules about disclosure of information under AFDC. Conference report cleared for the President May 29, 1980 and enacted as P.L. 96-265 on June 9, 1980.

P.L. 96-272, H.R. 3434

Adoption Assistance and Child Welfare Act of 1980. Establishes an adoption assistance program for children with "special needs" who are eligible for AFDC, AFDC foster care, or SSI. Provides Medicaid coverage for such children and imposes no income test on their adoptive parents. Revises AFDC foster care program to permit payments for children in public institutions with no more than 25 residents and, under certain conditions, for children voluntarily placed in foster care. Adopts a 75% Federal matching rate for foster care payments, but places a potential ceiling on such funds. Permits States to reduce AFDC benefits for recipients who live with an ineligible relative on grounds of reduced shelter costs per capita; disallows the AFDC work incentive bonus (disregard of a portion of earnings) for income reported late. Provides permanent authorization for Federal matching funds for child support services to non-AFDC families and permanently increases the cash welfare ceiling and Federal matching rate for Puerto Rico, Guam, and the Virgin Islands. (latter provision would be modified by Budget Reconciliation Act. See H.R. 7765).

H.R. 4904 (Corman and five cosponsors)

Social Welfare Reform Amendments of 1979. Version of H.R. 4321 (Carter administration proposal) drafted by Ways and Means Public Assistance Subcommittee after hearings. Establishes national income floor for families with children, paid in AFDC plus food stamps, at 60% of poverty as of Jan. 1, 1981, and raised to 65% of poverty as of Oct. 1, 1981. Standardizes expense disregard and limits child care deduction. Continues current system of withholding work incentive allowance from applicants; provides smaller work incentive deduction to two-parent families than to single-parent families. Withholds earnings disregard from any earned income reported late. Provides food stamp cash-out for SSI recipients who do not live with a non-SSI recipient. Increases maximum Earned Income Tax Credit to $550, compared with $600 in H.R. 4321. Adds several SSI provisions, including extension of services program for disabled children, limit on negotiability of SSI checks, attribution to an alien of his sponsor's income for 3 years, and liberalization of rule for one-third benefit cut for SSI recipients living in the household of another and receiving support and maintenance for him. Provides that SSI eligibility and benefits be determined on a prospective monthly basis, rather than quarterly, as now, or on the basis of a past month's circumstances, as required by H.R. 4321. Introduced July 23, 1979; referred to Committee on Ways and Means, which considered the bill briefly before the August recess and approved it on Sept. 13, 1979 (H.Rept. 96-451). The full committee deleted a subcommittee provision for food stamp cash-out, at option of States, for all AFDC recipients, substituting authorization for experimental cash-out projects. It also voted to give Congress authority to veto HEW regulations implementing the bill's AFDC revisions and to require HEW to decide within 4 months on States' requests for waivers from Federal rules for Section 1115A demonstration projects. On Sept. 20, the bill was referred to the House Agriculture Committee for 10 legislative days for consideration of food stamp cash-out provisions, but that committee took no action. On Nov. 1, 1979, the House, by a vote of 202 to 181, adopted a modified closed rule providing for 2 hours of debate on H.R. 4904. On Nov. 7, 1979, the House passed the bill (222-184), after adopting an amendment by Representative Jeffords to provide cash "nutrition supplements," at State option, to households consisting solely of blind or disabled persons eligible for cash grants and food stamps in Guam, Puerto Rico, and the Virgin Islands and to households elsewhere consisting solely of persons over 65 and eligible for food stamps but not receiving SSI. Before final passage, the House narrowly defeated (200-205) a two-part motion to: (1) allow States to impose whatever work rules they saw fit on AFDC recipients, provided only that work not be required as a condition of AFDC eligibility for single parents with a child below 6 years of age unless appropriate day care were available; and (2) establish a block grant demonstration program in at least eight States and three counties, under which participating jurisdictions would be permitted to use a block grant of money, based on FY79 AFDC expenditures, to conduct such activities and provide such aid as in their judgment would be most beneficial for children and families with children. Bill was referred to the Senate Committee on Finance Nov. 9, 1979.

Burke, Vee
IB74013

MLC-108

CHILD FEEDING PROGRAMS: BUDGETARY PRESSURES

...$275 million in budget cutbacks...

During the 96th Congress a variety of proposals to reduce Federal spending for child nutrition programs were ultimately enacted as part of the Omnibus Reconciliation Act of 1980 (P.L. 96-499). An estimated $275 million in program cutbacks for FY81 are expected to result from the child nutrition programs changes in this law. Initial proposals for budget reductions of more than $500 million were passed by both the House and Senate, in differing versions. The proposals were included in the Child Nutrition Amendments of 1980, as passed by the Senate (H.R. 7664, passed in lieu of S. 2675, amended) and in differing versions of both the House- and Senate-passed reconciliation legislation (H.R. 7765).

The major difference between the House- and Senate-passed reconciliation legislation was that the House bill provided for program cutting changes that were effective only for FY81. The Senate bill made these changes permanent. Ultimate resolution of the differences (included in P.L. 96-499) included program changes for FY81 that are estimated to result in $275 million in cutbacks for the remainder of this fiscal year. Some of these changes will be effective beyond FY81; however, the majority will not. The reconciliation legislation also included provisions extending the funding authority for all programs with termination dates through FY84.

The Child Nutrition Amendments of 1980 (H.R. 7664) as passed by the House did not include any of the reductions in child nutrition spending that were included in the Senate-passed legislation. Both the Senate and House versions of this legislation did, however, include extensions of funding authority for those programs with termination dates. Differences over the issue of funding cutbacks remained unresolved in the conference on this bill. However, some of the provisions were included as part of the final compromise agreement on the reconciliation legislation.

LEGISLATION

P.L. 96-499, H.R. 7765

Omnibus Reconciliation Act of 1980. Includes changes in child nutrition programs estimated to result in $275 million in Federal funding reductions for these programs in FY81. In addition, extends funding authority for the special supplemental food program (for women, infants and children – WIC); the summer food service program; reserve funds for food service equipment assistance; State administrative expense funds, the nutrition education and training program and standby funding authority for commodity assistance through FY84. Expands the child care food program by allowing for-profit child care agencies to sponsor meal service programs under the Child Nutrition Act. Budget changes approved for FY81 (only) include: elimination of the Jan. 1, 1981 semiannual inflation adjustment for Federal meal reimbursements; 2.5- cent reduction in the Federal per meal reimbursement rate for all lunches served in school districts serving less than 60% of their meals at free and reduced price to needy children; changed income eligibility levels for free and reduced price meal participation as a result of lowering the poverty guideline that is used as a basis for eligibility (income eligibility is set at 125% of the poverty guideline for free meals, and 195% of the guideline for reduced price meals); and a 2-cent reduction in the mandated cash value of commodities for each school lunch and child care meal. Among the permanent changes are a 3-cent reduction in the Federal reimbursement for snacks provided through the child care food program and reduction of the special milk program reimbursement rate for most of the milk served to a flat rate of 5 cents per half pint of milk. H.R. 7765 was introduced July 21, 1980. Reported by the House Committee on the Budget July 21 (H.Rept. 96-1167). Passed the House, amended, Sept. 4, 1980. Referred to Senate Committee on the Budget. Passed by the Senate, amended (S. 2885 and S. 2939), on Sept. 17, 1980. Conference report filed in the House Nov. 26, 1980 (H.Rept. 96- 1479). Signed into law Dec. 5, 1980.

Jones, Jean Yavis
IB80053

MLC-109

EMPLOYMENT AND EDUCATION: YOUTH ACT OF 1980

...CETA youth programs extended a year...

Unemployment among the Nation's youth is a problem of continuing importance overall, and the growing unemployment rate among nonwhite youth is a special concern. At issue in the 96th Congress was the form and size of a Federal response, especially in a time of severe constraints on the Federal budget. A program to address youth unemployment requires choices to be made among various employment and education objectives. A new employment program could have focused on the most critical aspects of the youth problem, or existing programs could have been extended or modified. Similar choices existed for program creation, extension, or modification with regard to Federal education programs. Alternatively, a single new employment and education program was considered. Two immediate factors urged legislative attention to the youth problem during the second session of the 96th Congress: first was the work of the Vice Presidential Task Force on Youth Employment that led in January 1980 to the $2 billion proposal for the "Youth Act of 1980;" second was the expiration in FY80 of the major youth programs under the Comprehensive Employment and Training Act (CETA). Although the House passed the Youth Act, the Senate did not. A continuing appropriations resolution was passed which extended the existing CETA youth programs for one more year.

LEGISLATION

H.R. 6711 (Perkins et al.)/S. 2385 (Williams et al.)

Amends the Comprehensive Employment and Training Act to extend the authorization of youth training and employment programs and to revise such programs. Extends the authorization of the private sector initiative program, the Job Corps, and the summer youth program. Establishes basic and employment skills improvement programs for disadvantaged youth, to be run by State and local educational agencies. Introduced Mar. 5, 1980; referred to Senate Labor and Human Resources, and House Education and Labor Committees. H.R. 6711, amended, reported favorably by the committee May 16, 1980 (H.Rept. 96-1034). Passed the House, amended, Aug. 26, 1980. S. 2385, amended, reported favorably by the committee Sept. 25, 1980 (S.Rept. 96-991).

Irwin, Paul; Rashkow, Ilona
IB80045

MLC-110

ENERGY ASSISTANCE FOR LOW-INCOME HOUSEHOLDS: 1979 AND 1980 LEGISLATION

...$1.85 billion appropriated under P.L. 96-369...

The announcement of oil-price decontrol in April 1979 and the substantial increases in home energy costs, especially heating fuel costs, over the past 2 years spurred action to provide Federal aid to low-income households faced with rapidly rising residential energy expenditures. Recent and projected home energy price increases, led by a very large jump in heating oil prices, could push these expenses to well over 20% of the income available to low-income households. An even greater proportion of income (over 30%) may be needed in many areas during the heating season. More recently, because of the 1980 summer heat-wave conditions in parts of the country, the burden of cooling costs on the poor and elderly also brought Federal action.

The immediate Federal response was appropriation of $1.6 billion for three interim programs of home energy aid during the 1979/80 winter (FY80). This aid was provided through State and local agencies and one-time special energy allowance checks to Supplemental Security Income (SSI) recipients, and was intended to ameliorate winter heating costs. In addition, nearly $30 million of these funds were made available to several "heat-wave" States under the terms of P.L. 96-321.

For FY81, the 96th Congress authorized a $3.1 billion home energy assistance program of block grants to States as part of the Crude Oil Windfall Profit Tax Act (title III of P.L. 96-223); a formula for distributing these funds is included in the authorization. However, substantially less than $3.1 billion will be appropriated to fund the FY81 program and the formula for distributing the funding differs from that approved in P.L. 96-223. The FY81 Continuing Resolution providing for funding of this and other Federal activities through Dec. 15, 1980, appropriated $1.85 billion for FY81 energy aid, changed the distribution formula from that in P.L. 96-223, slightly increased income eligibility limits for single-person households, and placed a ceiling on benefits of $750 per household. $1,756 billion of the total amount appropriated is to be sent out in block grants to the States; of the remainder, $87.5 million is to be transferred to the Community Services Administration (CSA) to operate crisis intervention programs, $4 million is to be used for Department of Health and Human Services (HHS) administrative costs, and $2.5 million is to be granted to Puerto Rico and the territories.

Regulations governing how States are expected to design their FY81 Low Income Energy Assistance Program (LIEAP) block-grant efforts were first issued on May 30, 1980, and then revised and made final on Oct. 7, 1980. As provided for in the authorizing legislation, these Federal regulations leave most of the design decisions to the various States to make, establishing only broad Federal parameters such as the maximum income eligibility standards that may be used. In addition, the rules waive a number of provisions in the legislation, most important the requirement for a State share of administrative costs.

During the 1979/1980 debate over low-income energy assistance, the 96th Congress resolved a number of major issues, at least for the FY81 program. The authorizing legislation expires on Sept. 30, 1981, and the same issues will likely be before Congress again, coupled with the question of whether to reauthorize the program or let it expire and depend on the existing welfare system to respond.

The 96th Congress chose the approach of giving block grants to the States after rejecting both a federally controlled system of standardized payments to all low-income households and the use of existing welfare programs to channel benefits to those qualifying for cash welfare and food stamps. It chose to appropriate $1.85 billion for FY81, roughly the amount allowed for in the FY81 Budget Resolutions, after having authorized $3.1 billion and expanding the potential eligible population by about one-third over the FY80 program (funded at $1.6 billion). Finally, Congress chose a formula for distributing funds among the States that is less cold-State-oriented than that used in FY80, but more cold-State-oriented than the formula originally incorporated in the authorizing legislation, thereby attempting to strike a balance between colder and warmer States and the relative importance of heating aid vs. aid for all home energy costs (including cooling expenses).

LEGISLATION

P.L. 96-126, H.R. 4930

In addition to providing FY80 Interior Department appropriations, amended to include $1.35 billion in funding for low-income energy assistance programs during the 1979/1980 winter. When coupled with a regular appropriation of $250 million for this purpose, provides a total of $1.6 billion for low-income energy assistance in FY80. Amended on Senate floor Oct. 16, 1979, to provide $1.2 billion. In conference, Nov. 7, 1979, the sum of $1.35 billion was decided upon. Conference agreement passed House and Senate Nov. 9, 1979. The House had earlier approved H.J.Res. 430, providing $1.35 billion for low-income energy assistance. Enacted Nov. 27, 1979.

P.L. 96-223, H.R. 3919

Crude Oil Windfall Profit Tax Act. As amended in the Senate, and in conference, provides for a Home Energy Assistance program. The Home Energy Assistance Act (S. 1724) was amended and added to H.R. 3919 on the Senate floor, as a substitute for the low-income energy assistance provisions in H.R. 3919 reported by the Senate Finance Committee. Introduced May 3, 1979; referred to Committee on Ways and

Means. Reported, amended, June 22 (H.Rept. 96-304). Passed House, amended, June 28, Referred in Senate to Committee on Finance July 10. Reported, amended, Nov. 1 (S.Rept. 96-394). Passed Senate, amended, Dec. 17, 1979. Conference agreement reached Feb. 26, 1980 (H.Rept. 96-817). Enacted as P.L. 96-223 Apr. 2, 1980.

P.L. 96-321, S. 2995

Authorizes the Community Services Administration (CSA) to reallocate unused FY80 winter heating assistance funds to States experiencing extreme heat conditions in the summer of 1980, for use in aiding low-income persons whose health is threatened by extreme heat conditions. It is expected that some $20/$25 million will be reallocated in addition to $7 million distributed earlier. Introduced July 30, 1980. Passed Senate July 30, 1980. Passed House July 31, 1980. Enacted Aug. 4, 1980.

P.L. 96-369, H.J.Res. 610

Appropriates $1.85 billion for the FY81 energy assistance program. Also changes the allocation formula, places a $750-per-household limit on benefits, and increases the eligible population. Enacted Oct. 1, 1980.

S. 1724 (Williams) [Incorporated in H.R. 3919]

Home Energy Assistance Act. Establishes a program of block grants to States to operate State-designed programs of low-income home energy assistance, under general Federal guidelines. As amended, authorizes $3.115 billion in FY81. Reported from the Labor and Human Resources Committee Oct. 25, 1979. Amended version incorporated in H.R. 3919 Nov. 15, 1979, and included in P.L. 96-223.

Richardson, Joe
IB80024

MLC-111

FEDERAL RETIREMENT PROGRAMS: PROPOSALS TO CHANGE THE COST-OF-LIVING ADJUSTMENTS (COLA)

...to reduce outlays by $1 billion in FY81...

As part of the effort to achieve a balanced budget for FY81, President Carter and the House and Senate Budget Committees of the 96th Congress proposed certain changes in the methods by which the annuities of Federal retirees are adjusted in response to changes in the cost of living. Among these proposals were ones which modified the method by which the initial annuity could be adjusted. Other proposals, if enacted, would have eliminated one of the two annual cost-of-living adjustments (COLA). As originally proposed, these changes were expected to reduce Federal outlays by as much as $1 billion or more during FY81. Opponents of the changes claimed that Federal retirement program beneficiaries would have borne an especially large portion of the burden of budgetary restraint; and that the COLA, as administered, was a fair method for maintaining purchasing power for fixed income recipients, many of whom, it was claimed, were undercompensated while employed.

Annuities from the Civil Service Retirement (CSR) system are adjusted twice annually for changes in the cost of living as measured by the Consumer Price Index (CPI). [NOTE: Other Federal retirement programs are usually modified to maintain similarity with CSR in all major provisions. It is probable that any modifications in COLA would apply to all Federal civilian and military retirement programs.] Prior to language contained in P.L. 96-499, the Budget Reconciliation Act of 1980, Federal employees, upon retirement, could have their initial annuity calculated as if they had retired prior to the last adjustment, thereby adjusting their initial annuity immediately. These employees remained eligible for all adjustments after actual retirement.

As a result of the changes in P.L. 96-499, all Federal annuitants retired after September 1980 will have the initial cost-of-living adjustment after retirement prorated to reflect only those months in annuity status since the last adjustment. All annuitants retiring after Jan. 18, 1981 will no longer be eligible to receive the advantage of any adjustments prior to actual retirement.

There are several advantages seen in delaying the effective date 45 days from enactment. First, the disruptive bunching of retirements specifically timed to beat a short term deadline may be somewhat lessened. Second, there are tax advantages to receiving any lump sum termination payments for accumulated annual leave after a new tax year starts, since income from annuities is not taxable until after the value of accumulated contributions has been received (usually not less than 18 months). Any lump sum payments would be regarded as income, and if received prior to Jan. 1 would be included within this year's taxable salary. Finally, of course, is the value of the September 1980 look-back of 7.7% itself. Anyone retiring prior to the effective date may find it an advantage to have the initial annuity increased by that amount, providing that the additional service since Sept. 1, and any intervening salary increases, has not resulted in a higher annuity without the advantage of the look-back provision.

On Mar. 31, 1980, President Carter submitted his Revised Budget for FY81, after extensive discussions with the House and Senate Budget Committees of the 96th Congress. This budget contained provisions for an annualized cost of living adjustment for Federal retirees and modified the methods for adjusting initial annuities for COLA both before and after retirement. Legislation pending before the House Post Office and Civil Service Committee and similar legislation pending before the Senate Governmental Affairs Committee proposed modifications to the initial COLA along lines envisioned by President Carter and the Budget Committees.

On June 25, 1980, the Senate Governmental Affairs Committee complied with the requirements for reconciliation spending limits imposed on the committee by the Concurrent Resolution, by recommending that the September 1980 COLA be eliminated. The Budget bill, S. 2885, introduced on June 26, 1980, contained this recommendation; if enacted, semiannual COLA remained scheduled for March and September 1981.

On June 30, 1980, the Senate defeated amendments by the Budget Committee to the Senate Reconciliation bill, S. 2885, which would have permanently eliminated one of the two annual COLA and would have incorporated procedures for prorating the initial COLA after retirement.

On July 1, 1980, the House Post Office and Civil Service Committee complied with reconciliation spending limits by eliminating the March 1981 adjustment. The committee also approved elimination of the "look-back" and approved provisions which would prorate the initial COLA to reflect months following commencement of the annuity.

On Sept. 1, and under provisions of current law, annuities were adjusted by 7.7%, reflecting CPI increases from Jan. 1 to June 30, 1980.

On Sept. 4, 1980, the House adopted an amendment to the reconciliation bill. H.R. 7765, which had the effect of restoring the March 1981 COLA. H.R. 7765 did contain an elimination of the look-back effective on the day of enactment, and applied proration requirements to any annuity begun since Sept. 1, 1980. These changes are estimated to save $23 million in FY81 and $324 million by FY85.

On Nov. 26, 1980, a House and Senate conference filed House Report 96-1479, the Budget Reconciliation Act of 1980. The report contains language eliminating look-back opportunities and prorating initial adjustments after retirement. Proration would apply to all annuities begun since Sept. 1, 1980; look-back would be eliminated 45 days following enactment.

On Dec. 3, 1980, the House and Senate adopted the conference report on H.R. 7765, the Budget Reconciliation Act of 1980. On Dec. 5, 1980, President Carter signed into law P.L. 96-499, the Budget Reconciliation Act of 1980. Look-back is eliminated effective Jan. 19, 1981.

Snook, Dennis
IB80052

MLC-112

FOOD STAMPS: 1979 AND 1980 LEGISLATION

...further attention to reform proposals expected...

During the debate over the 1979 Food Stamp Act amendments (P.L. 96-58), attention was called to the fact that, as in FY79, food-price inflation, unemployment, and increased participation would cause the FY80 and FY81 cost of providing food stamps to outrun the appropriations ceilings set by the Food Stamp Act of 1977. The 1977 Act authorized appropriations of up to $6.2 billion for fiscal years 79, 80, and 81, respectively; it also stipulated that, if funding needs, at full benefit entitlement, were to exceed the appropriations ceilings (or "caps"), benefits would have to be reduced to stay within available funds.

In response to the prospect of benefit reductions in FY79, the 96th Congress moved to raise the FY79 "cap" to $6.8 billion (P.L. 96-58) and appropriate sufficient supplemental funds (P.L. 96-38). However, the 1980 and 1981 "caps" were left unchanged at $6.2 billion.

By early 1980, it had become obvious that, without benefit reductions, the FY80 cost of food stamps would be about $9 billion and the FY81 cost would top $10 billion. Barring congressional action, the program was expected to close down on June 1, 1980, when the $6.2 billion "capped" appropriation ran out. Coupled with concern over the expected shutdown of the program were congressional and Carter Administration calls for a balanced budget in 1981 and the resultant need to achieve substantial cost savings in food stamp spending.

Acting against a May 15, 1980 deadline, the 96th Congress moved to increase the 1980 and 1981 "caps" and institute program reforms aimed at achieving substantial cost savings and tightening program administration (P.L. 96-249, the Food Stamp Act Amendments of 1980). Two supplemental appropriations will make a total of $9.2 billion for the FY80 program.

However, substantial issues remain. The adequacy of the recently raised "cap" on appropriations for FY81 is in serious question. And, several major reform proposals, rejected during the debate over the 1980 amendments, are still being pursued and will come up again during consideration of the FY81 appropriation and action (in 1981) on reauthorizing the program.

LEGISLATION

P.L. 96-58, H.R. 4057

Food Stamp Act Amendments of 1979. Raises the FY79 ceiling (or "cap") on food stamp appropriations to $6.8 billion, thereby permitting the appropriation of sufficient supplemental funding in FY79 (P.L. 96-38) to prevent benefit reductions. In addition: (1) removes authority to "carry over" unused funding from one year to the next; (2) adds new medical and shelter expense deductions for elderly and disabled recipients, thereby increasing benefits to those with large medical and shelter expenses; (3) provides for a method of reducing benefits, if funding is insufficient, that would penalize the elderly and those with the lowest incomes the least; (4) requires regular reporting on program costs and likely funding shortfalls, along with immediate benefit reductions if no congressional action to remedy any funding shortfall is expected; (5) expands program eligibility to include disabled persons in small group living arrangements; (6) includes a provision restating the requirement that strikers must meet all eligibility standards; (7) requires that the Social Security Administration provide information on Supplemental Security Income (SSI) recipients to food stamp agencies; (8) allows food stamp agencies to require and use social security numbers in administering the program; (9) requires repayment of any fraudulently obtained benefits before re-entry into the Food Stamp program; and (10) allows States to share in any recoveries of fraudulently obtained benefits as an incentive to pursue fraud. Introduced May 10, 1979 (H.Rept. 96-264). Passed House July 11, 1979, with amendments. Passed Senate July 23, 1979, with amendments (Senate bill S. 1309). Senate approved conference agreement July 27, 1979. House approved conference agreement Aug. 2, 1979. Signed by President Aug. 14, 1979, as P.L. 96-58.

P.L. 96-249, S. 1309

Food Stamp Act Amendments of 1980. Raises the FY80 and FY81 ceilings (or "caps") on food stamp appropriations to $9.5 billion and $9.7 billion, respectively, thereby permitting the appropriation of additional funding in FY80 (P.L. 96-243) and preventing a shutdown of the program on June 1, 1980. In addition: (1) expands program eligibility to include women and children in shelters for battered women and allows them to use food stamps to pay for meals served them in these shelters; (2) excludes all energy assistance payments from consideration as countable income; (3) allows States, at their option, to use past (rather than expected) income eligibility and benefit determinations, coupled with periodic reporting of eligibility factors such as income; (4) exempts vehicles used to transport physically handicapped persons from being counted against the assets test; (5) allows States to choose whether to have a system of administrative hearings to deal with fraud cases; (6) requires that the income and other resources of an ineligible alien be attributed to the remainder of the household (less a pro rata share); (7) allows States to verify eligibility factors beyond those federally prescribed; (8) allows the use of photo identification cards where necessary to protect program integrity; (9) requires food stamp agencies to report illegal aliens to the Immigration and Naturalization Service; (10) increases the Federal share of computerization costs; (11) increases Federal authority to force State compliance with Federal rules; (12) requires special audits of States with very high participation levels; (13) increases financial incentive for States to lower their rates of erroneous benefit payments; (14) increases financial sanctions on States with high rates of erroneous payments; (15) requires disclosure of information available to the Social Security Administration and State employment agencies, when requested by food stamp administering agencies for use in verifying food stamp eligibility; (16) extends the life of various pilot projects and adds a Federal share of administrative costs to the Federal share of costs for "workfare" pilot projects; (17) bars the use of Federal funds to interfere with implementation of any provision of the Food Stamp Act; (18) further restricts college student participation in the program; (19) makes all inflation adjustments in benefits and eligibility standards annual rather than semiannual and conforms the food stamp "poverty levels" (used in eligibility decisions) to those used by other Federal agencies; and (20) lowers the limit on allowable assets from $1,750 per household to $1,500. Several benefit and eligibility expansions, primarily increased deductions for medical and dependent-care expenses, are postponed until FY82. Introduced June 11, 1979; referred to Committee on Agriculture, Nutrition, and Forestry. Reported July 5, 1979. Passed Senate July 23, 1979, with amendments. Several provisions considered in conference with the House in 1979 and enacted into law in 1979 (See P.L. 96-58, H.R. 4057). Reported by House Committee on Agriculture on Feb. 27, 1980 (H.Rept. 96-788). Passed House May 8, 1980, with amendments. Conference agreement approved by Senate May 14, 1980. Conference agreement approved by House May 15, 1980. Signed by President May 26, 1980, as P.L. 96-249.

Richardson, Joe

MLC-113

PRIVATE PENSION PLAN REFORM

...changes to ERISA proposed...

Protections and guarantees for employees covered by private pension and welfare benefit plans and for their beneficiaries are provided in the Employee Retirement Income Security Act of 1974 (ERISA), which was signed into law on Sept. 2, 1974 (P.L. 93-406). Prior to ERISA, many individuals had to work many years and often had to reach a certain age before their pension credits vested (i.e., became nonforfeitable). Others lost their pensions or received substantially reduced amounts because their plan was terminated without sufficient assets. In shaping the legislation, Congress was cognizant that no employer had to provide a pension to its employees and tried to minimize any adverse effect that the legislation might have on the private pension system. But at the same time, after almost 10 years of study and debate, Congress was aware of the serious shortcomings that existed in the private pension system.

ERISA has been described as one of the most complex and voluminous laws enacted in recent years. The law affects two different types of employee benefit plans: pension plans (which provide retirement benefits), and welfare plans (which provide other kinds of benefits such as health insurance, accident liability, etc.).

Responsibility for carrying out the law's provisions is assigned to the Department of Labor, the Internal Revenue Service of the Treasury Department, and the Pension Benefit Guaranty Corporation (PBGC), a nonprofit Government corporation created to administer the law's pension plan termination insurance provisions.

Congress approved President Carter's reorganization plan (Reorganization Plan No. 4 of 1978), which was designed to improve the administration of ERISA. According to the Presidential message (H.Doc. 95-375), the proposal is designed to simplify and improve the unnecessarily complex administrative requirements of the law and to eliminate overlap and duplication in its administration.

ERISA established the following standards that employee benefit plans must meet: (1) Participation provisions -- to see that workers are not required to satisfy unreasonable age and service requirements before becoming eligible to participate in a plan; (2) Vesting, benefit accrual, and break in service provisions -- to see that persons who work for a specified minimum period under a pension plan are ensured of at least some pension at retirement age; (3) Funding provisions -- to see that the money will be there to pay pension benefits when they are due; (4) Fiduciary provisions -- to see that plan funds are handled prudently and in the best interests of pension plan participants and beneficiaries; (5) Reporting and disclosure provisions -- to see that employees and their beneficiaries know their rights under the plan and their obligations; (6) Joint and Survivor provisions -- to see that spouses of pensioners are given better protection; and (7) Plan termination insurance provisions -- to see that the benefits of workers in certain defined benefit pension plans are protected in the event of plan termination. ERISA also provides tax incentives for establishing Individual Retirement Accounts (IRAs), increases the amount of money that can be contributed by the self-employed into Keogh Plans and establishes limits on corporate pension contributions and benefits.

However, the things that ERISA does not do led the 96th Congress to make a number of proposals. Some of the private pension issues that the 96th Congress addressed included further simplification of ERISA's reporting and disclosure requirements, expanding survivor benefit protection, streamlining and consolidating the administration of ERISA, providing tax incentives for retirement savings for individuals covered by pension plans, and implementing termination insurance protection for participants in multiemployer pension plans.

Title IV of ERISA established the Pension Benefit Guaranty Corporation (PBGC) to guarantee the payment of vested pension benefits. The pension plan insurance program was established to protect workers and retirees against the loss of benefits when a plan is terminated with insufficient assets to pay benefits earned. Participants in single employer plans have been protected since July 1, 1974. However, the effective date of the mandatory coverage of multiemployer pension plans -- plans that cover the employees of two or more unaffiliated employers and are maintained under one or more collective bargaining agreements -- was initially deferred until Jan. 1, 1978. Because of the detrimental impact that Title IV might have had on multiemployer plans and the resulting large scale liabilities that may have been assumed by PBGC, Congress found it necessary to defer coverage of multiemployer plans four times to give it sufficient time to substantially revise Title IV. Since a revised multiemployer termination insurance program was not enacted nor another deferral date approved, Title IV of ERISA as originally enacted became effective Aug. 1, 1980. However, Congress subsequently passed the Multiemployer Pension Plan Amendments Act of 1980 (H.R. 3904) which was signed into law on Sept. 26, 1980 (P.L. 96-364).

LEGISLATION

P.L. 96-364, H.R. 3904

Multiemployer Pension Plan Amendments Act of 1980. Amends the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1954, as amended, for the purpose of improving retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, authorizing plan preservation measures for financially troubled multiemployer pension plans, and revising the manner in which the pension plan termination insurance provisions apply to multiemployer plans.

In brief, the legislation makes the following major changes in the program for multiemployer plans:

Changes the insurable event from the termination of a plan to insolvency. PBGC is required to provide financial assistance to insolvent multiemployer plans (whether or not terminated) where the assistance is needed to enable the plans to pay basic benefits.

Places certain financially troubled plans in a status of "reorganization." Once a plan enters reorganization, a minimum contribution requirement, which usually requires an increase in employer contributions, applies to the plan. The minimum contribution requirement is phased in to protect employers against very large increases in contributions for a plan year. In the case of a plan considered overburdened because it has a high proportion of retirees, the additional funding required under the minimum contribution requirement is reduced by an overburden credit.

Insures full coverage of the pension benefits of individuals who now receive pensions and those who are within 3 years of retirement. In other cases, the PBGC will guarantee 100% of the first $5 of monthly benefits per year of service plus 75% of the next $15 of monthly benefits per year of service. The 75% guarantee is reduced to 65% under plans which did not meet specified funding requirements.

Provides that the annual per-participant premium for multiemployer plans is to increase from the present $.50 to $2.60 over a 9-year period to assure that the PBGC will have sufficient assets to pay benefits up to the guarantee level for those plans that do become insolvent.

Institutes liability for employers who withdraw from plans that have unfunded vested liabilities. A withdrawing employer's liability is its fair share of the plan's total unfunded vested liability and is to be paid back to the plan in annual installments for a period not exceeding 20 years.

Enacted as P.L. 96-364 Sept. 26, 1980.

S. 209 (Williams and Javits)
ERISA Improvements Act of 1979. Amends ERISA and the Internal Revenue Code to simplify, clarify, and improve Federal law relating to the regulation of employee benefit plans; to foster the establishment and maintenance of plans; and for other purposes. Establishes a single agency -- the Employee Benefits Commission -- to administer ERISA. Seeks to encourage greater growth in pension plan coverage by granting tax credits for 5 years to certain small employers who establish new qualified pension plans. To assist workers who are in pension plans providing low benefits or who change jobs frequently and therefore never vest, provides a tax deduction for employee contributions to such plans or to an IRA. Prohibits the reduction of disability benefits provided by employee benefit plans due to increases in social security benefits. Prohibits the reduction or suspension of pension benefits due to an award or settlement under a worker's compensation law. Provides that a survivor's annuity would have to be made available to a participant's spouse if the participant has at least 10 years of service for vesting purposes and dies before reaching retirement. Makes it clear that ERISA and Internal Revenue Code provisions that prohibit assignment and alienation of pensions are not to be applied to defeat court orders requiring alimony or child support payments, but also makes it clear that this exception to the general antiassignment rule is to be applied only where it does not interfere with the plan rules respecting the time at which benefits are payable, or their form or duration. Contains a provision prospectively prohibiting the misrepresentation to employees about the terms and conditions of the plan, or an employee's status under the plan. Makes it clear that the antifraud rules of the Federal securities laws, and the State laws regulating securities shall not be applicable prospectively to the interest that an employee may have in such plan. Makes it clear that a State insurance law that requires that a particular benefit be provided by an insurer selling policies to employee benefit plans covered by ERISA is preempted and is not saved from preemption by the exception in ERISA for State laws that regulate the insurance industry. Introduced Jan. 24, 1979; referred to Committees on Finance, and on Labor and Human Resources. Hearings held by Labor and Human Resources Committee on Feb. 6-8, 1979. Hearings held Dec. 4-5, 1979 by Subcommittee on Private Pension Plans of Finance Committee on Apr. 3, 1979, on sections 201-204. Ordered to be reported, amended, by Committee on Labor and Human Resources May 16, 1979.

Schmitt, Ray

MLC-114

SOCIAL SECURITY FINANCING AND TAXATION

...concern mounting over payroll tax increases and financing difficulties...

Since passage of the latest major amendments to the social security program (Old Age, Survivors, and Disability Insurance -- OASDI) in December 1977, concern has been mounting about the large increases in both the tax rate and earnings base enacted with those amendments (P.L. 95-216, The Social Security Amendments of 1977). Shortly after passage, serious discussions took place in the House Ways and Means Committee and Senate Finance Committee about whether and how to provide relief from the increases, which began in CY79. While some relief against the 1979 increase was provided in the Revenue Act of 1978 (enacted in November 1978) through reductions made in individual income taxes, concern continues to mount about even greater increases in the earnings base that took effect in 1980 and 1981, and increases in the tax rate in 1981 and 1982.

The taxable earnings base was $25,000 in 1980 and increased to $29,700 on Jan. 1, 1981. The 1980 tax rate for employees and employers of 6.13% rose to 6.65% in 1981 and will increase to 6.70% in 1982. The rate for the self-employed rose from 8.10% to 9.3% in 1981 and will rise to 9.35% in 1982.

As concern mounts over these increases, recent financial forecasts for the system showed that current adverse economic conditions would cause at least one of the trust funds, Old Age and Survivors Insurance (OASI), to begin to have financing deficiencies, even with these increases, beginning possibly as soon as 1982.

LEGISLATION

P.L. 96-403, H.R. 7670
The 96th Congress approved a 2-year DI (Disability Insurance) to OASI reallocation of the tax rates to eliminate the possibility of a financing deficiency through the end of 1981. (The measure reshuffles the tax allocations to the two funds only for 1980 and 1981.) This will give the new Congress time this year to consider various alternatives to solve the financing problem over the long term. The measure was signed into law (P.L. 96-403) on Oct. 9, 1980.

Koitz, David
IB80007

MLC-115

SOCIAL SECURITY PROGRAMS FOR THE DISABLED

...high benefits levels and few work incentives...

Among the twelve or more major Federal programs for the disabled are two, authorized by the Social Security Act and administered by the Social Security Administration, which pay cash benefits to persons judged to have a severe and long term disability that prevents them from working. One of these programs, authorized by Title II of the Social Security Act (Disability Insurance -- or DI), is for disabled persons who have a work history sufficient to be insured by the social security program. The other, authorized by Title XVI of the Social Security Act (Supplemental Security Income -- or SSI), is for similarly disabled persons who have low incomes and resources. Some of the latter might also receive a disability insurance benefit.

The growth of these two programs, both in terms of number of participants and cost, has exceeded expectations. From 1970 to 1980, expenditures for benefits under the DI program increased from $3.3 billion to $16.1 billion. Disability payments under SSI rose from $2.7 billion in 1974, when the program first began, to an estimated $4.8 billion in 1980. Similarly, enrollment in DI rose from 2.6 million beneficiaries in 1970 to 4.9 million beneficiaries in 1980. SSI enrollment grew from 1.3 million persons in January 1974 to an expected 2.2 million in 1980. Although the rise in number of participants and the increase in cost has been rapid during most of this decade, recent data point to some slowing down, particularly in the disability insurance program. Whether this decline is a permanent leveling off of the programs, or simply a pause in growth is unknown.

The earlier unanticipated rapid rate of growth in disability insurance had threatened to bankrupt the disability insurance trust fund before additional resources were made available by the financing arrangements enacted by Congress in 1977. Studies, however, of the disability insurance program over the past several years by the Social Security Subcommittee of the House Ways and Means Committee and by HEW had identified other benefit and administrative failings of the program. In some instances, benefits were thought to be too high, particularly benefits paid to families; and in other instances, incentives for disabled beneficiaries with potential to return to work were lacking. Legislation was developed by both the subcommittee and the Administration to correct some of these program deficiencies.

LEGISLATION

P.L. 96-265, H.R. 3236, H.R. 3464

Early in 1979, Representative Pickle, chairman of the Social Security Subcommittee of the Ways and Means Committee, introduced H.R. 2054, a major reform bill. The subcommittee held hearings on the bill in February and March and on other proposals, including the Administration's bill, H.R. 2854, which roughly paralleled the provisions of H.R. 2054. After consideration of both bills, the Social Security Subcommittee marked up a bill and voted to report it on Mar. 27, 1979 -- H.R. 3236. The full Ways and Means Committee voted to report the bill on Apr. 23, 1979. The bill passed the House on Sept. 6, 1979.

The bill changed the DI program in three major areas: (1) by placing a cap on family benefits to ensure that no one will receive more in benefits than he or she had previously been earning; (2) by improving the incentives for work so that those on the disability insurance rolls would be encouraged to work if at all possible; and (3) by improving the administration of the program by requiring more reviews of applications and beneficiaries.

Many of the work incentive issues of the Disability Insurance program applied to the SSI disability program as well. The Subcommittee on Public Assistance and Unemployment Compensation of the House Ways and Means Committee voted to make changes in SSI after considering a number of proposals.

The full Ways and Means Committee also reported this bill (H.R. 3464) during the week of Apr. 23, 1979, and it was passed by the full House on June 6, 1979.

In addition to making work incentive improvements for SSI recipients similar to those in H.R. 3236, H.R. 3464 also modified the definition of disability for both SSI applicants and current recipients by allowing them to have greater earnings than were currently allowed while still providing for benefits status.

The Senate Finance Committee held hearings on both bills in early October, 1979. It completed 4 days of markup on Nov. 7, 1979, and ordered its recommendations reported to the Senate.

In addition to various amendments and alterations made to the two House bills, the Finance Committee bill consolidated the two bills into one, H.R. 3236. Principal among the Committee's disability changes were (1) a somewhat higher "cap" on DI benefits than that provided in H.R. 3236, and (2) application of the more liberal earnings limitations for the SSI program of H.R. 3464, but only as a 3-year demonstration and only once a person is on the benefit roll and not to applicants. The bill also included a number of provisions altering the AFDC and Child Support Enforcement programs.

The full Senate passed the bill, after making a number of amendments, on Jan. 31, 1980.

Conferees for the House and Senate met throughout the month of April 1980, and reached agreement after making numerous compromises on their differences. The conference report was approved by the House and Senate in late May.

The bill was signed into law by President Carter on June 9, 1980, becoming P.L. 96-265.

Koitz, David

MLC-116

UNEMPLOYMENT INSURANCE: FINANCIAL TROUBLE IN THE TRUST FUND

...in trouble since 1974-75 recession...

The Unemployment Insurance (UI) Trust Fund has been in financial trouble since the deep recession of 1974-1975, and there is a growing consensus that congressional action will soon be required to deal again with the problem. Although the UI system was originally designed to be self-financing, it has recently needed to borrow substantial sums from the Federal General Fund. The Department of Labor (DOL) recently reported that the UI Trust Fund owed the General Fund about $12.9 billion at the end of FY79. Also, at the end of FY79, 17 States owed the Federal Unemployment Account (FUA) of the UI Trust Fund about $5.1 billion that was borrowed to finance: (1) unusually high benefits in their regular programs; and (2) their 50% share of the Federal-State Extended Benefits (EB) program. About $0.1 billion of this amount was financed from funds already available in the FUA, but the remaining $5.0 billion was advanced to the FUA from the General Fund. Also, the UI Trust Fund owed the General Fund about $7.9 billion for advances used to finance: (1) the 50% Federal share of EB; and (2) the emergency Federal Supplemental Benefits (FSB) program.

LEGISLATION

H.R. 4007 (Brodhead et al.)

Proposes to allow States with outstanding loans under title XII of the Social Security Act to avoid the automatic increase in the net Federal Unemployment Tax on their employers by repaying an equivalent amount from their own State accounts and the full amount of any additional Federal loans received during the year, provided that they have enough reserves in their accounts to cover 6 months of benefits. Introduced May 8, 1979; referred to Committee on Ways and Means. Reported to House June 6, 1979 (H.Rept. 96-239). Passed House Nov. 7, 1979. Reported to Senate Sept. 26, 1980 (S. Rept. 96-998). Passed the Senate attached to H.R. 8146.

H.R. 8146 (Corman et al.)

Provides up to an additional 10 weeks of unemployment compensation for 6 months in response to high unemployment caused by the 1980 recession. Reported to House Sept. 29, 1980 (H. Rept. 96-1425). Passed House Sept. 30, 1980. Received in the Senate and held at the desk by unanimous consent Sept. 30, 1980. Passed Senate Oct. 2, 1980.

Hobbie, Richard A.
IB79098

MLC-117

WELFARE REFORM

...renewed efforts to overhaul the system...

The Nation's multibillion dollar welfare "system" is under attack as costly, confusing, unfair, and a failure. Frustration with welfare has led to four Presidentially ordered studies in the last decade and to numerous reform proposals, but to no widespread agreement on solutions. Mr. Carter is the second President to conclude that the welfare system undermines work and family stability and to urge that it be replaced. He proposed in 1977 that Congress "totally scrap" the existing system and replace it with a "Better Jobs and Income Program" that would provide a cash income floor, at least 90% federally funded in each State, for all Americans, and create 1.4 million jobs for parents deemed "employable." However, the Carter bill failed to reach the floor of either House or Senate; and the 95th Congress, which enacted a major revision of the food stamp program, adjourned without making any substantive changes in cash welfare.

On May 23, 1979, the President sent to the 96th Congress a new welfare reform program, designed for full implementation by 1982 and embodied in two bills, the Social Welfare Reform Amendments of 1979 (H.R. 4321) and the Work and Training Opportunities Act of 1979 (H.R. 4425). The new plan would have built upon AFDC and food stamps and would have abandoned the effort to establish a cash guarantee for non-aged childless persons. The proposal, to be phased in over a 3-year period, would have established a national minimum benefit, in cash and food stamps, for single-parent AFDC families; converted AFDC for unemployed fathers (AFDC-UF) into a program of "temporary assistance" for needy families of unemployed parents and extended it to all States; provided some jobs; offered fiscal relief, estimated at about $900 million in the first year, to States and those local governments that help fund AFDC; and made other changes.

An amended version of the Social Welfare Reform Amendments of 1979, H.R. 4904, was passed by the House on Nov. 7, 1979. It would have established an income floor for all families with children at 65% of the poverty threshold, paid in AFDC cash plus food stamps. If the bill had been fully effective in Jan.-June 1980, its income floor for a family of four would have been approximately $4,740 yearly, of which about $3,168 would have been in cash and $1,572 in food stamps. Subsequently, on Feb. 6 and 7, 1980, the Public Assistance Subcommittee of the Senate Finance Committee held a hearing on "welfare reform perspectives." However, on Mar. 14, 1980, the President announced that, as part of his anti-inflation drive, he was withdrawing his FY81 budget request for more than $800 million to implement elements of H.R. 4904 that year, and later he said he would defer for one year the effective date of his Work and Training Opportunities Act.

Various studies and critics have identified these problems in the welfare system, among others: wide variations in benefit levels, exclusion of millions of the needy from help, unintended potential penalties against marriage and the family, work disincentives, lack of coordination, high error rates, administrative complexity, high costs, and harsh treatment of some recipients. Three responses have met calls for welfare reform: (1) proposals for no change, on grounds that the status quo best provides the desired aid to desired groups, permits flexibility, and recognizes local concerns; (2) proposals to revise existing programs (incremental approach), either by expansion or contraction of eligibility; and (3) proposals to replace the existing system or major parts of it. Basic issues faced by all proposals to change welfare include: Who should be eligible for how much aid of what kind, and what level of government should pay for it?

In January 1980, an estimated unduplicated total of 28.7 million persons, 13% of the U.S. population, received aid from AFDC, Supplemental Security Income (SSI), food stamps, Medicaid, or General Assistance. Some of these persons also received veterans' pensions, and many were eligible for the earned income tax credit.

In FY79, the above five major programs spent approxmiately $50.3 billion in Federal-State-local funds, as follows: Medicaid, $21.8 billion; AFDC, $12.2 billion; SSI, $7.2 billion; food stamps, $6.9 billion; and General Assistance, $2.2 billion.

LEGISLATION

P.L. 96-249, S. 1309

Increases FY80 and FY81 authorizations for food stamp appropriations to $9.5 billion and $9.7 billion, respectively. Introduced June 7, 1979; referred to Committee on Agriculture, Nutrition and Forestry. Passed House, amended, May 8, 1980. Conference report passed Senate May 13, 1980, and House May 13, 1980. Measure discontinues semiannual cost-of-living adjustments, replacing them with annual revisions; authorizes food stamps for meals to battered women and children in emergency shelters; lowers asset limits; adds a new dependent care deduction and liberalizes the medical care deduction (both effective in FY82); gives States the option to adopt retrospective accounting; and extends welfare pilot programs. Enacted on May 26, 1980.

P.L. 96-265, H.R. 3236

Disability Insurance Amendments of 1979. Introduced Mar. 27, 1979 and referred to Ways and Means Committee. Passed House Sept. 6, 1979 and referred to Senate Committee on Finance. Amended by Committee to include its amendments to H.R. 3464. Passed by Senate on Jan. 31, 1980. Senate conferees named Jan. 31, 1980. Conferees filed a report on May 13, 1980. Provisions include: 3-year demonstration program giving continued SSI cash benefits plus Medicaid and social services to disabled SSI recipients with earnings above the Substantial Gainful Activity level ($300 monthly) but below the gross income earnings limit for aged SSI recipients; plus, on a finding of necessity by the HHS Secretary, continued medicaid benefits to those with earnings above the regular limit for Federal SSI cash aid; treatment of sheltered workshop remuneration as "earnings;" and treatment of SSI disabled "children" as independent units (ceasing to deem their parents' income and resources as available to them once they reach age 18). Other provisions: deeming to legal aliens, for 3 years after entry, the income and resources of their immigration sponsors for SSI purposes; continuing for 3 years the program of services to SSI children. Conferees also agreed to several Senate AFDC provisions (S. 1669, S. 1670, S. 1672, S. 1674-8). The House accepted the conference agreement on May 22 and the Senate on May 29, 1980. The House accepted the conference agreement on May 22 and the Senate on May 29, 1980. Enacted as P.L. 96-265 on June 9, 1980.

P.L. 96-272, H.R. 3434

Adoption Assistance and Child Welfare Act of 1980. Social Services and Child Welfare Amendments of 1979, drafted by the Public Assistance Subcommittee of the Ways and Means Committee after hearings on H.R. 1523 (Miller of California); H.R. 2724 (Corman); and H.R. 3222 (Administration proposal, introduced by Corman). Entitles States to $266 million annually for child welfare services, at a 75% Federal matching rate; authorizes adoption subsidies for AFDC children; permits voluntary placement of AFDC children into foster care; permits Federal matching for foster care in public institutions with no more than 25 children; sets standards and procedures for foster care services. Also permanently increases Title XX social services ceiling to $3.1 billion, of which $200 million would be earmarked for child day care at 100% Federal expense, and makes permanent the higher funding ceiling and Federal matching rate provided to the outlying areas for FY79. (see H.R. 7765 for modification proposed in FY80-81). Introduced Apr. 4, 191979; referred to Committee on Ways and Means; favorably reported by committee on May 10, 1979 (H.Rept. 96-136). Bill approved by Appropriations Committee June 26, 1979 (H.Rept. 98-138, Part II). Passed by House on Aug. 2, 1979, after removal of entitlement provision for child welfare funding. Approved by Senate Finance Committee after amendments and reported on Oct. 2, 1979 (H.Rept. 96-336). Committee amendments included placing a ceiling on foster care payments; limiting Title XX FY81 funding to $2.9 billion; adopting a new AFDC earned income disregard (first $60 earned monthly, plus child care cost, plus 40% of the rest); denying any disregard to income reported late; authorizing Federal funding for child support services to non-AFDC families permanently and retroactively to Oct. 1, 1978; requiring States to count a portion of an AFDC stepparent's income; and permitting States to reduce benefits to recipients whose households include ineligible relatives, on grounds of reduced shelter costs per capita. Passed Senate, after amendment, on Oct. 29, 1979. Floor amendments included: deletion of income test for subsidies to adoptive parents of hard-to-place AFDC children; broadening adoption aid to include SSI children; and provision for Federal matching for foster care of children who were removed from their home without a court order, provided a judicial determination was made before Oct. 1, 1978 that the child should remain in foster care. Senate conferees were named Oct. 29, and House conferees Nov. 16. Conferees agreed on Apr. 28, 1980 (H.Rept. 96-900) to prohibit the AFDC earnings disregard for income reported late, permit States to pro-rate shelter allowance for households with non-AFDC members, extend the program of referral to services for SSI children, make permanent the $78 million authorization at 75% matching for the territories, authorize Federal funding for child support services to non-AFDC families on a permanent basis, set the Title XX ceiling at $2.7 billion for FY80 plus $200 million for day care and to raise the ceiling, in stages, to $3.3 billion for FY85 and thereafter. Also, conferees agreed to place a ceiling on foster care matching funds under the new Title IV-E program only if appropriations for Title IV-B child welfare services reached specified levels ($266 million in FY83-84). The conference agreement provides Federal matching for maintenance of certain children voluntarily placed in foster care; permits Federal matching for foster care in public institutions with no more than 25 children; requires States to establish adoption assistance programs under Title IV-E by Oct. 1, 1982; permits use of Title XX funds for emergency shelter of adults, as a protective service; and establishes a separate Title XX entitlement for the outlying areas, including the Northern Marianas. The House and Senate passed the conference report on June 13, 1980. Enacted on June 18, 1980, as P.L. 96-272.

P.L. 96-499, H.R. 7765

Budget Reconciliation Act. As amended by the Senate, bill would lower the $77.7 million annual ceiling on Federal matching funds for AFDC and adult cash aid in Puerto Rico, Guam, and the Virgin Islands to $38.85 million in FY80 and $51.8 million in FY81. Other Senate amendments would postpone to Oct. 1, 1981 the effective date of new HHS Title XX day care regulations and make SSI applicants ineligible for benefits for stated periods if they dispose of resources for less than fair market value. Conferees rejected all provisions except one to postpone implementation of day care regulations (until only July 1, 1981) in report filed Nov. 26, 1980 (H.Rept. 96-1479). Signed into law Dec. 5, 1980.

H.R. 4904 (Corman and five cosponsors)

Social Welfare Reform Amendments of 1979. Version of H.R. 4321 (Carter Administration proposal) drafted by Ways and Means Public Assistance Subcommittee after hearings. Establishes national income floor for families with children, paid in AFDC plus food stamps, at 60% of poverty as of Jan. 1, 1981, and raised to 65% of poverty as of Oct. 1, 1981. Standardizes expense disregard and limits child care deduction. Continues current system of withholding work incentive allowance from applicants; provides smaller work incentive deduction to two-parent families than to single-parent families. Withholds earnings disregard from any earned income reported late. Provides food stamp cash-out for SSI recipients who do not live with a non-SSI recipient. Increases maximum Earned Income Tax Credit to $550, compared with $600 in H.R. 4321. Adds several SSI provisions, including extension of services program for disabled children, limit on negotiability of SSI checks, attribution to an alien of his sponsor's income for 3 years, and liberalization of rule for one-third benefit cut for SSI recipients living in the household of another and receiving support and maintenance for him. Provides that SSI eligibility and benefits be determined on a prospective monthly basis, rather than quarterly, as now, or on the basis of a past month's circumstances, as required by H.R. 4321. Introduced July 23, 1979; referred to Committee on Ways and Means, which considered the bill briefly before the August recess and approved it on Sept. 13, 1979 (H.Rept. 96-451). The full committee deleted a subcommittee provision for food stamp cash-out, at option of States, for all AFDC recipients, substituting authorization for experimental cashout pilot projects. It also voted to give Congress authority to veto HEW regulations implementing the bill's AFDC revisions and to require HEW to decide within 4 months on States' requests for waivers from Federal rules for Section 1115A demonstration projects. On Nov. 1, 1979 the House, by a vote of 202 to 181, adopted a modified closed rule providing for 2 hours of debate on H.R. 4904. On Nov. 7, 1979, the House passed the bill (222-184) after accepting an amendment proposed by Representative Jeffords. The amendment provides cash "nutrition supplements," at State option, to households consisting solely of blind or disabled persons eligible for cash grants and food stamps in Guam, Puerto Rico, and the Virgin Islands and to households elsewhere consisting solely of persons aged over 65 and eligible for food stamps but not receiving SSI. Before final passage, the House narrowly defeated (200-205) a two-part motion to: (1) authorize States to impose whatever work rules they saw fit on AFDC recipients, provided only that work not be required as a condition of AFDC eligibility for single parents with a child below 6 years of age unless appropriate day care were available; and (2) establish a block grant demonstration program in at least eight States and three counties, under which participating jurisdictions would be permitted to use a block grant of money, based on FY79 AFDC expenditures, to conduct such activities and provide such aid as in their judgment would be most beneficial for children and families with children. Bill was referred to the Senate Committee on Finance Nov. 9, 1979.

Burke, Vee
IB77069

TRADE AND INTERNATIONAL FINANCE

MLC-118

COUNTERVAILING DUTY AND ITS WAIVER

...all waivers resolved...

The Trade Act of 1974 authorized the Secretary of Treasury under certain conditions to waive the imposition of countervailing duties for a period of four years. Countervailing duties are levied in addition to regular customs duties on imported goods whose production or exportation is subsidized in their country of origin. When the countervailing duty waiver authority was enacted by the Trade Act of 1974, the period for which it was to be in effect was a year shorter than the period for the overall Presidential authority to negotiate trade agreements with foreign countries. This difference was apparently in part due to the intent on the part of Congress to provide an incentive for an early conclusion of an international subsidies and countervailing code within the multilateral trade negotiations (MTN) of the signatories of the General Agreement on Tariffs and Trade (GATT). When it became obvious in the 95th Congress that the negotiations would not be completed before the Jan. 3, 1979 waiver authority expiration date, extending legislation was introduced. The authorizing legislation, however, never reached the final vote. On the day the 96th Congress convened, the President renewed his request for an extension of the countervailing duty waiver authority. A bill to that effect (H.R. 1147) was introduced on Jan. 18, 1979 by Representative Ullman and several members of the House Ways and Means Subcommittee on Trade. The subcommittee held hearings on Feb. 7, 1979, but bill action was delayed until the Administration had worked out an agreement with the textile and apparel industries and unions. The agreed-to program provided additional safeguards against import impact and for improved export and production practices and competitiveness. After this agreement was already being implemented, the Subcommittee and the full Ways and Means Committee approved the waiver extension bill. After a brief debate, the House passed the bill (H.R. 1147) on Mar. 1, 1979, changing the expiration date of the waiver authority to Sept. 30, 1979. After a brief floor debate, H.R. 1147 was passed unamended by the Senate on Mar. 28, 1979 by a vote of 82 yeas and 15 nays. The bill was signed by the President on Apr. 3, 1979 (P.L. 96-6).

An international subsidies and countervailing agreement was included in the package of agreements concluded in the Tokyo Round of MTN, signed on Apr. 12, 1979. U.S. legislation to implement the entire package was worked out in detail and coordinated jointly by the House Ways and Means Committee and Senate Finance Committee over a period of several months and introduced on June 19, 1979. In the area of countervailing, the implementing bill (H.R. 4537/S. 1376) contained, first, provisions for an injury test in countervailing cases involving subsidized imports from countries which signed the countervailing agreement ("countries under the Agreement") second, a substantially speedier countervailing procedure and, third, disposition of existing countervailing duty waivers. Since the implementing bill was not amendable (a requirement of the Trade Act of 1974) both Houses passed it without any substantive debate and with overwhelmingly favorable votes (House: July 11, 1979 - 395 to 7; Senate: July 23, 1979 - 90 to 4). The President signed it into law (P.L. 96-36) on July 26, 1979. With the enactment of the Trade Agreements Act of 1979, the waiver authority expired but the waivers remained in effect. After the new countervailing law entered into force (Jan. 1, 1980), one waiver (in respect to South Korea, a "country not under the Agreement") was revoked and countervailing duty reinstated. Of the remaining 12 waiver cases, 8 were referred for injury determination to the U.S. International Trade Commission (USITC) which found no injury in 6 cases and terminated 2 by request of the petitioner. In all 12 cases, the duty was either revoked or in the process of being revoked by the end of 1980.

LEGISLATION

P.L. 96-6, H.R. 1147

With effect retroactive to Jan. 3, 1979, extends the countervailing duty waiver authority of the Secretary of the Treasury until the date of enactment or defeat (by one-House veto) of legislation implementing a multilateral subsidies agreement, or Sep. 30, 1979 (whichever occurs first), and continues in effect countervailing duty waivers in effect on Jan. 2, 1979, until the expiration of the waiver authority, revocation of a specific waiver by the Secretary of the Treasury, or its disapproval by a resolution of either House of Congress (one-House veto) (whichever occurs first). Introduced Jan. 18, 1979; referred to House Committee on Ways and Means and Senate Committee on Finance. Hearings held by Subcommittee on Trade on Feb. 7, 1979. Markup on Feb. 21, 1979. Reported to House, amended, by Committee on Ways and Means on Feb. 22, 1979 (H.Rept. 96-15). Passed House, amended on Mar. 1, 1979. Hearings held on H.R. 1147 before Senate Finance Committee on March 19, 1979. Senate Finance Committee reported the bill favorably without amendment on March 22, 1979. After a brief floor debate, H.R. 1147 was passed unamended by the Senate on Mar. 28, 1979 by a vote of 82 yeas and 15 nays. Signed by the President on Apr. 3, 1979.

P.L. 96-39, H.R. 4537/S. 1376

Part of Title I, Trade Agreements Act of 1979. Sets up a new, detailed, and substantially faster procedure for resolving countervailing complaints. In addition to a preliminary and final determination of subsidy, a preliminary and final determination (by the U.S. International Trade Commission) of injury is provided for. Includes provisions for suspension or termination of a countervailing investigation, and for special action in "critical circumstances." Provisions in respect to injury determination apply only to products of "countries under the Agreement" (signatories of the Subsidies and countervailing agreement, or countries which have a similar contractual trade relationship with the United States), and to all duty-free imports. Excludes countries not under the Agreement from the suspension and critical circumstances provisions.

Extends all waivers of countervailing duty orders in respect to products of countries under the Agreement past the present statutory termination date for waivers and subjects them automatically to an injury determination. If injury is established, the waiver is to be terminated; if not, the countervailing duty order is to be revoked and the duty imposed. Unwaived countervailing duty orders applicable to products of countries under the Agreement may be subjected to an injury determination upon request of the government of the exporting county or of the affected exporters. If no injury is found, the countervailing duty order is to be revoked. Products of countries not under the Agreement do not qualify for an injury test, and existing countervailing duties being imposed thereon are to remain unchanged.

New provisions took effect on Jan. 1, 1980, when the Antidumping Agreement and the Subsidies and Countervailing Agreement entered into force for the United States.

Pregelj, Vladimir N.

MLC-119

EXPORT CONTROLS

...Trade promotion...or control?

The House Committee on Foreign Affairs and the Senate Committee on Banking, Housing and Urban Affairs reported out bills (H.R. 4034 and S. 737, respectively) that would provide a 4-year extension of the Export Administration Act and make a number of changes in the administration of export controls. Congress enacted export control legislation after reconciling differences between the two bills. While differing in specifics, the basic thrust of the two bills was similar. Both emphasized the importance of exports to the U.S. economy and require that economic considerations be taken into account when applying export controls. Both bills included measures to simplify and expedite the licensing process. Specifically, they provided a timetable for export license reviews and established a new category of licenses --- the qualified general license which could be used to permit multiple shipments of a given item to a particular destination. Both bills specified criteria under which foreign policy export controls should be used. In addition, both required the President to negotiate with other governments belonging to COCOM (a Coordinating Committee that includes Japan and all of the NATO countries, except Iceland) in an effort to create more effective enforcement procedures for multilateral export controls.

An important difference in the two bills were provisions for involving the Congress in the decisionmaking process on foreign policy export controls. H.R. 4034 required the President to consult with Congress, when possible, before imposing any new foreign policy control and to report the imposition of a control to Congress. It also provided for congressional disapproval of the control by concurrent resolution. S. 737 did not include a congressional veto provision. It required the President to notify Congress within 30 days of imposing, increasing, or extending export controls for foreign policy purposes. Such controls would expire after one year unless extended by the President.

S. 737 was passed by the Senate on July 21, 1979, and H.R. 4034, by the House on Sept. 25, 1979. The Senate and House subsequently approved a conference bill, S. 737, on September 27 and September 28, respectively. The conference bill included the major common features of the House and Senate bills -- the emphasis on the importance of exports; requirements for changing export licensing procedures; criteria for foreign policy export controls; and the requirement for the President to negotiate with COCOM members for more effective multilateral controls. The conference bill included the Senate language, requiring only notification of Congress on foreign policy controls. In addition, the bill included a provision clarifying the roles of the Secretary of Commerce and Secretary of Defense in maintaining a list of critical goods and technologies subject to national security export controls. The bill basically maintained the existing sharing of responsibilities between the two cabinet members, but included a new provision requiring the President to notify Congress whenever he overrules a licensing recommendation by the Secretary of Defense.

President Carter signed the Export Administration Act of 1979 (P.L. 96-72) on Sept. 29, 1979.

LEGISLATION

P.L. 96-72

Export Administration Act of 1979. Emphasizes the importance of exports to the national interest. Provides measures to simplify and expedite the export licensing process. Requires the Secretary of Defense to develop a list of critical technologies for the purpose of facilitating national security export controls by Oct. 1, 1980. Directs the Secretary of Commerce to prepare and maintain an export control list. Requires periodic reviews of the export control list. Provides that the President must extend foreign policy controls annually or they will expire and establishes criteria that the President must consider before imposing foreign policy controls. Requires the President to notify Congress before imposing foreign policy controls. Requires congressional approval before any license is granted to export crude oil.

Enacted Sept. 29, 1979.

Holliday, George; Hardt, John P.
IB75003

MLC-120

EXPORT TRADING COMPANIES

...passes Senate, but not House...

A relatively small number of large multinational corporations supply the vast majority of U.S. exports. Export expansion proponents maintain that a large number of small and medium-size firms would begin to export or would export more if they were provided with the right kind of trade services such as financing, risk coverage, and market research. General purpose trading companies that provide a broad range of trade services do not exist in the United States.

Legislation was introduced in the 96th Congress to facilitate and encourage the formation of export trading companies. The original legislation, introduced by Senator Stevenson in 1979 as S. 1663, contained four major provisions concerning banking, antitrust, financing, and taxation. The Senate Banking Committee reported out a revised Stevenson bill, S. 2718 (which incorporated S. 864, a bill introduced by Senator Danforth to amend the antitrust exemption for export trade association) on May 12, 1980. The Stevenson bill, with amendments to the banking provisions and deletion of the tax provision was passed 77 to 0 in the Senate on Sept. 3, 1980.

Five export trading company bills were introduced in the House (H.R. 7230 by Rep. Bonker, H.R. 7310 by Rep. LaFalce, H.R. 7364 by Rep. AuCoin, H.R. 7436 by Rep. Reuss, and H.R. 7463 by Rep. Neal). The Reuss bill is identical to S. 2718. The Bonker bill, as reported out by the full House Foreign Affairs Committee on July 1, 1980, was similar to S. 2718, with some differences in antitrust provisions. None of the bills however, reached the floor for a vote. Thus, further action on export trading company legislation can be expected in the 97th Congress.

Key issues were raised by each of the major provisions. The banking provisions allowed limited investments by U.S. banks in export trading companies. The investments would have been subject in most instances to prior approval by Federal bank regulatory agencies and subject to certain safeguards and conditions. The provision was controversial because it ended the traditional separation between banking and commerce. Proponents of bank involvement maintained that U.S. banks can provide important trade services such as research, foreign market knowledge and experience, expertise in documentation and, most importantly, financing. Moreover, it was argued that banks have a long-range view of foreign markets that helps offset the short-term profit horizon of many U.S. producers. Changes in U.S. Law --- the Edge Act and Regulation K --- were required for bank participation. Both the Edge Act and Regulation K reflected a long standing view that banking and commerce should remain institutionally separate. The primary motivation was to insure that the lending decisions of banks remain impartial and based on sound economic and financial grounds.

The antitrust provisions of the legislation amended the Webb-Pomerene Act of 1918, which provides an antitrust exemption to export trade associations, and extended the same antitrust exemption to export trading companies. Three modifications of the Webb Pomerene Act were proposed. The first change involved instituting a certification process that would clarify what types of cooperative export activities are permissible. Businessmen often profess reluctance to use the Act because of general uncertainty over what constitutes a domestic restraint of trade. A second modification made trade in services (e.g. insurance, engineering, construction) eligible for the antitrust exemption. A third modification entailed shifting the administration of the Act from the Federal Trade Commission to the Commerce Department.

In evaluating the antitrust modifications, potential trade benefits must be balanced against potential restraints on price competition and entry of new firms into the domestic market. Current law already recognizes that export associations may have a negative impact on the domestic economy, but requires that the restraint of trade be "substantial."

The financing provisions of the legislation required the Export-Import Bank to establish a guarantee program for all commercial loans to export trading companies. The Economic Development Administration (EDA) and Small Business Administration (SBA) were also authorized to provide loans for the formation and expansion of export trading companies. The rationale for Government financing was basically to provide start-up funds for entry into a more risky foreign market and to offer the same advantages alledgedly enjoyed by foreign competitors. Critics of this feature of the bill argued that the amounts were too large or that this provision undermined international efforts at limiting competitive financing.

The legislation also authorized the trading company to be eligible for special tax treatment in the form of deferral of taxes on export income (DISC). The intent was attract investment in trading companies. The Carter Administration opposed this provision because of an estimated annual revenue loss of between $300 to $700 million and because of doubts that it was in conformity with current international trade law.

LEGISLATION

S. 2718 (Stevenson) (Cross Reference H.R. 7436)

Export Trading Company Act of 1980. S. 864 and S. 2379. S. 864, a bill introduced by Sen. Danforth, amended the current Webb-Pomerene Act and provided a limited antitrust exemption for export associations. S. 2379, a bill introduced by Sen. Stevenson, sought to promote the development of export trading companies. Title I of S. 2718 permitted banks to make limited investments in trading companies. All controlling investments were subject to prior approval and conditions imposed by Federal bank regulatory agencies. Additional appropriations to the Economic Development Administration and Small Business Administration to support increased loans and guarantees for exports were authorized. Title II of the bill is a revised version of S. 864. It provided a certification procedure enabling trade associations (including export trading companies) to receive antitrust clearance for specified export trade actions. The certification procedure would have facilitate export trading company operations by permitting firms to determine in advance exactly which export trade activities would be immune from antitrust suit. Title III of the bill extended the tax deferral available under the DISC (Domestic International Sales Corporation) provisions of the tax code to the exports of export trading companies, including export of services. The use of subchapter S of the tax code (which permits certain pass-throughs to shareholders of closely held corporations) would be allowed for some export trading companies. Introduced May 15, 1980. Passed Senate with amendments by a 77-0 vote on Sept. 3, 1980.

Ahearn, Raymond
IB80044

MLC-121

TRADE NEGOTIATIONS: THE TOKYO ROUND

...A package of agreements in four broad areas...

The multilateral trade negotiations (MTN) were initiated in 1973 with the signing of the Tokyo Declaration by representatives of more than 100 countries. The basic purpose of the MTN is to continue the work of six previous rounds of trade negotiations held under the auspices of the General Agreement on Tariffs and Trade (GATT) of reducing barriers to international trade.

On Apr. 12, 1979, negotiators at the MTN initialled a package of agreements in the following four broad areas:

1. Industrial tariff reductions
2. Codes of conduct covering five non-tariff measures:
   a. Subsidies and countervailing duties;
   b. Standards;
   c. Government procurement;
   d. Licensing;
   e. Customs valuation
3. Agricultural trade matters
4. GATT modernization.

In addition, several agreements pertaining to specific industries were initialled. Two codes of conduct, on safeguards and commercial counterfeiting, are still being negotiated.

With few exceptions, the entire package was initialled by 23 of the 99 countries participating in the negotiations. Those initialling the agreements were the United States, Japan, Argentina, Hungary, Sweden, Switzerland, Australia, Canada, Norway, Finland, New Zealand, Austria, Bulgaria, Czechoslovakia, and the nine members of the Common Market.

The Administration introduced on June 19th legislation (H.R. 4537 and S. 1376) to implement the trade agreements. The House approved H.R. 4537 on July 11, 1979, by a vote of 395 to 7. The Senate approved S. 1376 on July 23, 1979, by a vote of 90 to 4. President Carter signed into law (P.L. 96-39) the Trade Agreements Act of 1979, on July 26, 1979.

LEGISLATION

P.L. 96-39
See discussion above.

Ahearn, Ray; Holliday, George

TRANSPORTATION

MLC-122

AMTRAK TRENDS: FINANCING THE DEFICIT

...routes reduced...

Rail passenger revenues and patronage declined annually during most of the years following World War II. From 1950 to 1970, the railroad market share of intercity passenger traffic plummeted from 46.3% to 7.2%. By the time the Interstate Commerce Commission requested Congress to change existing legislation to keep rail passenger service alive, scarcely 400 trains were left in a system that in 1929 had some 20,000 passenger trains. The National Rail Passenger Corporation (Amtrak) was created by P.L. 91-518 in 1970 as a semi-public, for-profit, entity to halt the serious reduction in the number of passenger trains. Given the task to consolidate and upgrade rail passenger service with a minimum amount of initital Government aid, Amtrak sought to revive rail passenger patronage. Profits have failed to materialize for Amtrak, and in fact, deficits have grown each year. Reasons for the losses were many and complex. Poor track and roadbed were held principally responsible for these losses because they prevented faster and more reliable service. Additionally, Amtrak operated with unreliable equipment, inflexible labor rules, inflation, and extremely heavy competition with automobiles.

The National Railroad Passenger Authorization Act (P.L. 95-421) was signed on Oct. 5, 1978. Aside from authorizing operating funds and capital grants for Amtrak in FY79, the legislation directed the Secretary of Transportation to make final recommendations for an optimal intercity route system for Amtrak. DOT's recommendations called for route cuts of 12,000 miles, which allegedly would save $1.4 billion in subsidies through 1984. Congress, however, did not accept the DOT plan, and after a period of gasoline shortages across the United States, adopted a program that resulted in a reduction in the Amtrak route system of about 20%. The Amtrak Reorganization Act of 1979 (P.L. 96-73), enacted into law on Sept. 29, 1979, contained certain cost and ridership criteria to which all Amtrak trains will be subject. Trains not meeting these criteria have been discontinued.

The Act also provided for a 2-year authorization of $1,305,800,000 for operating expenses and an authorization to cover capital costs for 3 years of $701,000,000.

LEGISLATION

P.L. 96-73

The Amtrak Reorganization Act of 1979 amended the Rail Passenger Service Act by authorizing appropriations for Amtrak operating expenses of $1,305,800,000 for FY80 and FY81, and for capital expenses of $701,000,000 for FY80 to FY82. This Act also ---

Directs the Corporation to continue to operate rail passenger service over any long distance route recommended for discontinuance by the Secretary, if the short-term avoidable loss per passenger is below 7 cents per passenger mile and the passenger mile per train mile on such route is not less than 150. The Corporation is to continue to operate over short distance routes if the short-term avoidable loss per passenger is below 9 cents a passenger mile and the passenger miles per train mile is not less than 80; directs the Corporation to develop a comprehensive plan for the improvement of all intercity rail passenger service in the basic system; directs the Corporation to establish a performance evaluation center to conduct an ongoing review of railroad operations, and to make recommendations for improving such operations; directs Amtrak to establish an "Employee Incentive Program'; authorizes the Interstate Commerce Commission to establish through routes and joint fares with other modes of transportation; and directs Amtrak to develop a job placement program for employees affected by the reduction in work force caused by the Secretary's recommendations for the restructuring of routes.

Transportation Section

MLC-123

RAILROADS: REGULATORY ISSUES

...to improve R.R.'s economic prospects...

Railroading is an industry that has been in decline for a long time. Some industry spokesmen and supporters have cited the extensive rate and service regulation administered by the Interstate Commerce Commission (ICC) as a major element in the decline. The ICC has been slow to act on numerous important cases, and many in the industry are of the opinion that it has kept many rates unreasonably low. Abandonments and new services are also thought to have been unreasonably delayed by the ICC. The railroads see some degree of deregulation as one means by which the position of the industry can be strengthened. By allowing rails greater freedom in setting rates, abandoning service, and offering different types of service, it is believed that they will be in a better position to compete with other providers of transportation, such as trucks and barges.

Throughout its existence the Interstate Commerce Commission (ICC) has been charged with protecting the public from predatory and discriminatory practices engaged in by the railroads prior to regulation. This protection derives from over eighty years of administrative rulemaking and case law, much of which was promulgated during a period when railroads enjoyed a virtual monopoly over U.S. inter-city transportation. As the role of the railroad has changed, the ICC has often found it difficult to shift its regulatory thrust to better address the needs of the industry. The 96th Congress addressed these issues by developing legislation to deal with some of the major problems of the rail industry. The result of this effort was the Staggers Rail Act of 1980, P.L. 96-448.

LEGISLATION

P.L. 96-448, H.R. 7235/S. 1946

The Staggers Rail Act of 1980. The law adopts the House version of rate setting policy calling for ICC determination of market dominance in those instances where the revenue-variable cost ratio of a challenged rate exceeds 160% the first year, 165% the second year, 170% the third year, and 175% the fourth year. It sets a floor of 170% and a ceiling of 180% on the cost recovery percentage that govern the ICC's jurisdictional boundaries over rates beginning on Sept. 30, 1984. It provides a 6% "freeze zone" above the inflation rate in which railroads may raise rates with no ICC review in each of the first four years of the law and sets the level at 4% in following years. The law changes notice requirements for new rates to 10 days for a rate decrease and 20 days for a rate hike. Allows contract agreements to be entered into between railroads and shippers. Places limits on the amount of equipment railroads may dedicate to contract service. Eliminates "demand-sensitive" rates enacted by the 4R Act. The new law makes several changes to joint rate provisions and permits the imposition of surcharges on joint rates in certain circumstances. The law will provide for accelerated abandonment procedures mostly in line with the provisions of S. 1946. The availability of Federal assistance funding for railroad rehabilitation and improvement also is increased.

Fischer, John W.
IB79003

MLC-124

TRUCKING: ECONOMIC REGULATION

...Congress significantly reduces regulation of trucking...

On July 1, 1980, President Carter signed The Motor Carrier Act of 1980. The new law significantly reduces the amount of economic regulation of trucking by the Interstate Commerce Commission (ICC). The ICC acted almost immediately to implement the new law by issuing, on July 3, several notices of proposed rulemaking. Aspects of the new law include making it easier to obtain new operating authority; limiting the operations of rate bureaus; allowing owner-operators to carry regulated commodities under certain conditions; assigning responsibility for loading and unloading exempt commodities to reduce the opportunity for abuses; and eliminating some restrictions in operating authority such as circuitous route limitations and gateway restrictions.

LEGISLATION

P.L. 96-296, H.R. 6418/S. 2245

The Motor Carrier Act of 1980. The language in P.L. 96-296 follows more closely the language of H.R. 6418 than the language of the April 15, 1980 Senate passed version of S. 2245. The House amended S. 2245 and passed it in lieu of H.R. 6418 on June 19th. The Senate agreed to the House version of S. 2245 on June 20th. Signed into law by President Carter on July 1, 1980.

Thompson, Stephen J
IB76019

URBAN AND RURAL DEVELOPMENT

MLC-125

HISTORIC PRESERVATION

...major overhaul of Federal programs...

Historic preservation was once confined to saving and maintaining houses associated with prominent figures in American history. Today, however, historic preservation is enlisted in causes as diverse as conserving energy resources, fighting inflation, revitalizing cities, and providing new opportunities for local employment. Preservationists today focus on whole districts in the cities or the countryside, as well as ships, factories, bridges, missile launch sites, and petroglyph boulders.

Although historic preservation is still to a great extent a private and local activity, the Federal Government does participate in a number of ways. The Government maintains a national record of historically significant districts, sites, buildings, structures, and objects, and designates and encourages the preservation of National Historic Landmarks. The Government provides grants for surveying areas to identify cultural resources and for acquiring and maintaining such resources; identifies potentially significant cultural resources under Federal jurisdiction; reviews planned Federal projects in order to identify the effects on cultural resources; provides technical assistance for all aspects of historic preservation; and provides tax breaks designed to encourage the reuse of older structures.

The primary legislative vehicle for Federal historic preservation activities has been the Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915). This legislation was reauthorized and expanded by the National Historic Preservation Act Amendments of 1980. Among other things, the 1980 amendments provided that all property owners be notified if their buildings are being considered for listing on the National Register, and that if the owner objects, the structure not be listed; The new law stipulates that, even if an owner objects to the listing, the Secretary of the Interior could designate the structure as eligible for listing, thereby protecting the building to some extent from Federal agency actions. The Amendments call for local governments that agreed to enforce State and local preservation laws, inventory historic properties, establish a local preservation commission, and provide for public participation would be certified to review nominations for the Register. The new law states that 10% of the State's preservation funds must be earmarked for certified local governments; that a loan insurance program be authorized for the purpose of encouraging banks to make improvement loans for historic properties; that the Advisory Council on Historic Preservation be reorganized; and that all Federal agencies must appoint a historic perservation officer and must accept certain responsiblities with regard to historic properties under their jurisdiction.

The Tax Reform Act of 1976 adopted several provisions designed to provide economic incentives for the preservation of historic structures. Legislation to eliminate the duties on wood veneers was amended to provide for a 3-year extension of these tax provisions.

LEGISLATION

H.R. 5496 (Seiberling)

Amends the National Historic Preservation Act of 1966 to establish and maintain a National Register of Historic Places. Establishes a Historic Preservation Agency under the direction of an Administrator for Historic Preservation and an Advisory Council on Historic Preservation. Provides a program of financial assistance to States and local governments and sets forth guidelines for all Federal agencies for the furtherance of the preservation of historic properties. Passed House Nov. 17, 1980; passed Senate Nov. 19, 1980; enrolled in both Houses and sent to the President Dec. 1, 1980.

Osbourn, Sandra S.

MLC-126

REGIONAL AND URBAN DEVELOPMENT

...reauthorization or extension of EDA and the regional commissions...

Three categorical grant programs of Federal assistance for area economic development expired Sept. 30, 1979. They were (1) EDA, (2) the so-called Title V Regional Development Commissions, and (3) the Appalachian Regional Commission. Legislation for their reauthorization was passed by both the House (originally H.R. 2063, passed as S. 914) and by the Senate (S. 914). There were significant differences in the House and Senate versions, however, especially regarding EDA. Conference failed to resolve these differences. Meanwhile, the programs were operating under continuing resolution. The main points of difference regarding the EDA program were as follows: (1) standby Local Public Works authority (House bill to which the Senate and the Carter Administration were strongly opposed.) (2) eligibility criteria -- broader in House bill, with 90% of U.S. eligible vs. 67% in Senate bill; (3) project selection criteria, affecting targeting to distressed persons (stronger in Senate bill); and (4) requiring notification of special assistance for areas facing losses of defense bases or contracts (McKinney amendment to House bill). Some of the main features in the proposals included the following: roughly a $1 billion budget, with an additional $1.8 billion in loan guarantee authority; an interest subsidy program of between $50 million and $350 million; a new provision allowing for grants to cover up to 15% of the costs of private sector development projects; authority to capitalize local revolving loan funds for business development; a provision for experimentation with equity financing; and (in the House bill) a standby Local Public Works (LPW) program.

Senate Action. S. 914 -- Title I. National Public Works and Economic Development Act of 1979. (Congressional Record, Aug. 1, 1979, pp. S11059-S11106.) The Senate Committees on Environment and Public Works, and on Banking, Housing and Urban Affairs, jointly reported S. 914 on Aug. 1, 1979, and it was passed by the Senate later that month by a vote of 83 to 17. Title I of this bill extended the EDA for 2 years, and Title II extended the Appalachian and Title V Regional Commission Programs for 4 years beginning Oct. 1, 1979. It took the approach of amending the expired EDA Act, incorporating some of the changes in the Administration's proposal as well as changes suggested by the Committees. This is in contrast to the original S. 914 introduced April 5, which represented Administration proposals for a substantial overhaul of the EDA law.

The bill passed by the Senate authorized increased funding for business development: $1.8 billion in loan guarantees, $150 million in direct loans, $50 million in contract authority for interest subsidies, and $27.923 million to cover losses in loan guarantees in default under existing law. These amounts were considerably below those asked by the Administration, although they were significantly larger than the present program.

There was considerable discussion on the Senate floor of S. 835, the original bill to reauthorize the regional commissions. (Congressional Record of July 31, 1979, pp. S10877-S10911.) However, the bill as passed, transformed into Title II of S. 914, does not differ significantly from the original bill. Some of its main features were (1) authorization of a new one-State commission covering Alaska; and (2) intention of Congress being that each area of the Nation be included in not more than one development region, and that every region consist of two or more States, except for Alaska.

House Action. On Nov. 1, 1979 the House Committee on Rules reported out H.R. 2063, reauthorizing the EDA and Regional Commission programs. Among the major differences between this bill and S. 914 passed by the Senate are (1) the inclusion of a stand-by authorization for counter-cyclical local public works; (2) wider eligibility for the program; and (3) amounts to be authorized for the expanded business loan program, and restrictions on its implementation. H.R. 2063 was passed by the House on Nov. 14, 1979.

Final Action -- An Extension. As a result of the failure to resolve conflicts in the House and Senate versions of the reauthorization, both chambers passed simple extensions through September 1982 of the authorizations that had expired September 30, 1979 (P.L. 94-487). The Senate passed S. 3152 on November 20, 1980, the House passed an identical bill on the same day, and President Carter signed the measure into law on Dec. 8, 1980, as P.L. 96-506. (Congressional Record, November 20, 1980, H11033-H11036, and S14768-S14770). The EDA budget for FY81 is $664 million, an increase over the 1980 budget of $550 million. The budget for the Title V Regional Commissions for FY81 is $44.3 million, a decrease from $62.8 million in 1980. The Appalachian Regional Commission budget is $339.3 million for FY81, compared to $356.5 million in 1980.

LEGISLATION

P.L. 96-506, S. 3152

Extendes the expired authorization P.L. 94-487. Signed into law Dec. 8, 1980.

H.R. 2063 (Roe, Johnson et al.)
Introduced Feb. 8, 1979. See discussion above.

S. 914 (Burdick, Randolph)
National Public Works and Economic Development Act of 1979. Introduced Apr. 5, 1979. See discussion above.

Breckenridge, Charlotte

MLC-127

RURAL DEVELOPMENT: THE FEDERAL ROLE

...Agriculture Department designated lead agency...

Rural development has been defined as an effort to improve the quality of life and the physical environment of all residents of rural communities and the open countryside in the United States. This broad mission involves the activities of Federal, State and local governments, as well as of the private sector. Because of the large number of affected groups, each concentrating on and protective of its own particular role in rural development, the coordination and orchestration of these activities is a continuing concern to rural advocates in both the Administration and the Congress.

Federal efforts to develop rural areas and to improve the living standards of rural residents take a variety of forms. Some of these efforts, authorized by the Rural Development Act of 1972 (P.L. 92-419; 86 Stat. 657), are specifically directed at rural areas. Other programs and activities, such as education and manpower, are directed at certain categories of people wherever they may live, and rural areas must compete with urban areas for funds under these programs.

The Rural Development Act of 1972 designated the U.S. Department of Agriculture (USDA) as the lead agency in the Federal rural development effort. This mission is complicated by the fact that the majority of Federal resources for rural development are administered by agencies, commissions, and authorities other than USDA.

The most significant rural development legislation enacted by the 96th Congress was the Rural Development Policy Act of 1980, which is designed to strengthen the USDA's role as the lead agency in coordinating a government-wide rural development strategy. The Act requires the Secretary of Agriculture to prepare a comprehensive rural development strategy, and to submit this strategy and annual updates to the House and Senate Agriculture Committees on Jan. 31 of each year. The initial strategy document, as well as updates, are to include an analysis of the rural impact of the President's proposed budget recommendations for all agencies, as well as any legislative proposals necessary to achieve rural development goals. The Department of Agriculture's role in rural development is further strengthened by the authorization of a new position in the department, that of Under Secretary of Agriculture for small community and rural development.

The Rural Development Policy Act of 1980 also increases from $10 million to $15 million the annual authorization for Farmers Home Administration rural development planning grants, and would expand the authorized use of these grant funds to include funding of circuit riders who would assist rural areas in applying for needed Federal assistance. A new annual authorization of $1 million is made available to the Farmers Home Administration for the development of a system to disseminate information and technical assistance of federally sponsored or funded programs available for rural areas. Authorizations for rural development, small farm research, and extension programs are extended through FY81.

The Consolidated Farm and Rural Development Act amendments of 1980 also related to the rural development programs administered by USDA. The following loan program lending limits were established for FY80 through FY82: water and sewer facility loans, $1 billion; industrial development loans, $1.5 billion; and community facility loans, $500 million. In addition, the population of cities and towns eligible for community facility loans under this Act is increased from 10,000 to 20,000.

LEGISLATION

P.L. 96-355, H.R. 3580/S. 670
National Rural Development Policy Act of 1979. Provides for the establishment of a rural development policy and requires coordination of Federal rural development policies. Also authorizes a 2-year extension of authorization for Title V of the Rural Development Act of 1972. Introduced Apr. 19, 1979; referred to Committee on Agriculture. Reported favorably, with amendments, June 8, 1979 (H.Rept. 96-259). Rule providing an Open Rule with one hour of debate passed House Nov. 16, 1979. Passed House, amended, Sept. 15, 1980; subsequently, passage was vacated and S. 670, a similar Senate-passed bill, was passed in lieu, after being amended to contain the language of the House bill as passed. The Senate passed S. 670 as amended Sept. 16, 1980. Signed into law (P.L. 96-355) Sept. 24, 1980.

P.L. 96-438, S. 985
Consolidated Farm and Rural Development Act Amendments. Reported favorably May 8, 1979, amended to increase the authorization levels (S.Rept. 96-168). Passed Senate, amended, May 23, 1979. Passed House, amended, Oct. 24, 1979. Conferees agreed to file report Dec. 20, 1979. Senate agreed to Conference Report Sept. 30, 1980. House agreed to Conference Report Oct. 1, 1980. Signed by President Oct. 13, 1980 (P.L. 96-438).

S. 892 (Leahy and Stewart)
Extension of Title V of the Rural Development Act of 1972. Amends a drafting error in S. 671. Introduced Apr. 5, 1979; referred to Committee on Agriculture, Nutrition, and Forestry. Reported favorably, with amendments, May 16, 1979 (S.Rept. 96-188). Passed Senate, amended, June 14, 1979. S. 670 was amended in the House to include provisions from S. 892.

S. 1064 (Morgan)
Rural Housing Amendments. Extends and reauthorizes existing FmHA loan and assistance programs and establishes new policies for allocating assistance, disposing of FmHA-held projects, and housing for migrant farm workers. Introduced May 2, 1979; referred to Committee on Banking, Housing, and Urban Affairs. Reported favorably May 15, 1979 (S.Rept. 96-157). Incorporated in H.R. 3875 as an amendment July 13, 1979. Enacted as Title V of P.L. 96-153 Dec. 21, 1979.

Osbourn, Sandra S.
IB77113

MLC-128

URBAN AFFAIRS: REAUTHORIZATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

...compromise reached on appropriations...

The 1980 Housing and Community Development Act (P.L. 96-399) reauthorized the Community Development Block Grant (CDBG) and Urban Development Action Grant (UDAG) programs though 1983. Both programs are viewed favorably by local officials and Members of Congress because they provide Federal funds for development projects conceived, designed, and implemented by local communities. Also, relative to the categorical programs that preceded CDBG, both programs require minimum paperwork by applicants.

In the viewpoint of some critics, however, a number of local governments are not meeting all of the requirements and objectives of CDBG. Shortcomings in the Housing Assistance Plans prepared by local officials, questionable use of economic development funds, and insufficient provision of aid to lower income residents are some of the problems several groups monitoring CDBG have discovered. Also, arguments have been made that UDAG funds are not distributed among commercial, industrial, and neighborhood projects in accordance with the "reasonable balance" requirement of the law. HUD has claimed that balanced treatment is given to all three types of UDAG applications.

CDBG was first authorized in the Housing and Community Development Act of 1974 (P.L. 93-383), and amended by the Housing and Community Development Act of 1977 (P.L. 95-128), the Housing and Community Development Amendments of 1978 (P.L. 95-360), and the Housing and Community Development Amendments of 1979 (P.L. 96-123). UDAG was first authorized in the Housing Act of 1977, and modified in 1978 and 1979 amendments.

LEGISLATION

P.L. 96-399, S. 2719
Housing and Community Development Act of 1980. Title I of the bill would reauthorize the Community Development Block Grant program through 1983. Authorizes $3.81. billion, $3.96 billion, and $4.11 billion for FY81-FY83, respectively. Also reauthorizes the UDAG program at the level of $675 million for FY81, FY82, and FY83. The Act precludes use of 1980 Census data in the UDAG or CDBG programs, directs that a local government included in the population count of an urban county be included for three consectuive program years, and requires urban counties to notify local governments that they may elect not to be included in the urban county. The Act also authorizes that, if needed, pro rata reductions be taken every year to meet the basic grant needs, the 3% discretionary fund set-aside be a permanent function of the program, and community energy conservation strategies may be prepared with block grant funds. Other titles of the bill would also amend various housing and neighborhood assistance programs. H.R. 6606 introduced Feb. 26, 1980; referred to Committee on Banking, Finance, and Urban Affairs; hearings held by Subcommittee on Housing and Community Development Mar. 4-11, 1980. Clean bill, H.R. 7262, forwarded to full Committee May 6, 1980, approved by Committee May 15, and approved by House Aug. 22. H.R. 7262 was then tabled, the provisions of S. 2719 vacated, and the House language submitted in lieu. S. 2383 introduced Mar. 5, 1980; referred to Committee on Banking, Finance, and Urban Affairs; hearings held by Subcommittee on Housing and Urban Affairs Mar. 26, Apr. 2, 1980. Clean bill, S. 2719, forwarded to full committee, approved May 15. Senate approved S. 2719, with amendments, June 21, 1980. Congress approved conference report 96-1420 Sept. 26; President signed legislation on Oct. 8.

P.L. 96-304, H.R. 7542
In addition to approving supplemental appropriations for a number of programs, this Act rescinds funding for others, including the CDBG program. $153.2 million was rescinded, as the Carter Administration requested. Signed into law July 8, 1980.

P.L. 96-526, H.R. 7631
Department of Housing and Urban Development-Independent Agencies Appropriations for FY81. Under compromise agreement reached by conference committee, appropriates $3.770 billion for CDBG for FY81. Also appropriates $675 million for UDAG program for FY81. Conference report approved by both Houses Dec. 5, 1980. Signed into law (P.L. 96-526) Dec. 15, 1980.

Bea, Keith
IB80042

VETERANS

MLC-129

VETERANS' SERVICES AND BENEFITS

...emphasis on education and health...

In response to the special problems of Vietnam veterans, cost-of-living increases, and the educational needs of veterans, the 96th Congress passed a number of bills. Three measures impacting directly on the services and benefits provided to veterans, their dependents, and their survivors, have been signed into law. A bill was signed into law to increase the salaries of physicians and dentists employed in VA facilities. In addition, legislation was passed by both the House and the Senate to amend veterans' education and rehabilitation programs. Congress also passed legislation to increase compensation benefits for persons with service-connected disabilities.

LEGISLATION

P.L. 96-22, S. 7

Veterans' Health Care Amendments of 1979. Provides for the establishment of two new programs: a program of professional counseling for Vietnam veterans, and a program of preventive health care for veterans with service-connected disabilities. Provides also for expanded treatment and rehabilitation programs for veterans suffering from alcohol or drug dependence or abuse disabilities. Amends the contract care programs by liberalizing the conditions under which contract care may be provided. Contains provisions relating to the construction, alteration, lease, and acquisition of medical facilities. S. 7 was introduced Jan. 15, 1979, and referred to Committee on Veterans' Affairs. Reported Apr. 27, 1979 (S.Rept. 96-100). Passed Senate, amended, May 16, 1979. Passed House, amended, May 21. Signed into law June 13, 1979.

P.L. 96-128, H.R. 2282

Veterans' Disability Compensation and Survivors' Benefit Adjustment Act of 1979. Provides a 9.9% increase in the monthly rates of service-connected disability compensation, the annual clothing allowance, and the dependency and indemnity compensation rates. Also modifies provisions dealing with the various government life insurance programs. In addition, exempts VA home loans from State anti-usury provisions. H.R. 2282 was introduced Feb. 21, 1979; referred to Committee on Veterans' Affairs. Reported, amended, June 27, 1979 (H.Rept. 96-310). Passed House, amended, July 16, 1979. Passed Senate, amended, Aug. 3, 1979. Signed into law Nov. 28, 1979.

P.L. 96-151, H.R. 3892

Veterans' Health Program Extension and Improvement Act of 1979. Extends and liberalizes certain expiring Veterans' Administration health programs such as the exchange of medical information and the assistance to health manpower programs. Modifies and liberalizes the conditions under which veterans are entitled to both outpatient and inpatient medical care. H.R. 3892 was introduced May 2, 1979, and referred to Committee on Veterans' Affairs. Reported to House, amended, May 10, 1979 (H.Rept. 96-138). Passed House, amended, May 21, 1979. Passed Senate, amended, June 18, 1979. Signed into law Dec. 20, 1979.

P.L. 96-330, H.R. 7102

Veterans' Administration Health-Care Amendments of 1980. Modifies the "special pay formula" (pay above the base salary) for physicians and dentists employed in VA's Department of Medicine and Surgery. Provides a maximum of $22,000 and $10,000 respectively for physicians and dentists compared with $13,500 and $6,700 respectively under current law. (The special pay authority for VA physicians and dentists was established by law in 1975 in response to the recruitment and retention problems facing the VA at that time and in recognition that the then-existing Federal pay scales alone were not sufficient to attract or retain quality health-care professionals to staff the VA.) Provides scholarships for persons wanting to complete medical or nursing school with the intent of eliminating current problems in recruiting and retaining qualified personnel. Introduced Apr. 22, 1980; referred to Committee on Veterans Affairs. Reported May 14, 1980 (H.Rept. 96-958). Passed House May 20, 1980. Comparable Senate bill (S. 2534) introduced Apr. 2, 1980; referred to Committee on Veterans Affairs. Reported May 15, 1980 (S.Rept. 96-747). Senate passed H.R. 7102 amended to incorporate language of S. 2534 on June 5, 1980. House agreed to Senate amendments July 31, 1980. Senate agreed to House amendments Aug. 1, 1980. Bill was cleared for President's signature. Vetoed by President Carter Aug. 22, 1980. Veto overridden by House and Senate Aug. 26, 1980.

P.L. 96-385, H.R. 7511

Veterans' Disability Compensation and Housing Benefits of 1980. Provides a 13% increase in the compensation rates payable to veterans with a service-connected disability rated less than 50% and a 14.3% increase for veterans rated 50% or more service-connected disabled. (The monthly compensation rate for those rated 100% disabled was increased from $889 to $1,016 Oct. 1, 1980.) Increases by 14.3% the rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths are service-connected. Expands the specially adapted housing benefit program to provide an amount not to exceed $5,000 to service-connected blinded veterans and service-connected veterans who have suffered an anatomical loss. Increases from $25,000 to $27,000 the maximum VA loan guaranty for a conventional home or condominium apartment. Introduced June 5, 1980; referred to Committee on Veterans Affairs. Reported July 2, 1980 (H.Rept. 96-1155). Passed House July 1, 1980. Passed Senate with amendments Aug. 6, 1980. House agreed to Senate amendments with amendments Sept. 18, 1980. Senate agreed to House amendments Sept. 24, 1980. Signed into law Oct. 7, 1980.

P.L. 96-466, H.R. 5288

Veterans' Rehabilitation and Education Amendments of 1980. As passed by the House, revises the existing vocational rehabilitation program to make it more analogous to the vocational rehabilitation program administered by the U.S. Department of Health and Human Services. Increases by 10% veterans' payments for most education and training assistance. Makes several changes in the GI bill program through which educational assistance allowances are paid to eligible persons who were in active military service between Jan. 1, 1956 and Jan. 1, 1977. Allows certain veterans with active duty prior to Jan. 1, 1977 to become eligible to participate in the post-Vietnam era veterans educational assistance program (VEAP). Through VEAP, veterans entering the military service after Dec. 31, 1976 voluntarily contribute monthly toward their future educational benefits and the Government matches their contributions at a rate of $2 for every $1 made by the veteran up to a specified limit. Revises eligibility for veterans' employment and training programs and expands services and assistance for veterans under the Department of Labor. H.R. 5288 was introduced Sept. 14, 1979; referred to Committee on Veterans Affairs; and approved by the House Oct. 16, 1979. H.R. 7394 then was introduced as a clean bill to include provisions of H.R. 5288 May 20, 1980, H.R. 7394 was referred to the Committee on Veterans Affairs. Reported July 12, 1980 (H.Rept. 96-1154) The Senate Passed H.R. 5288 in lieu of S. 870, amended, Jan. 24, 1980. The House passed H.R. 7394 July 21, 1980. No further action was taken on H.R. 7394. The House agreed to the Senate version of H.R. 5288 with amendments Sept. 25, 1980. The Senate agreed to House amendments with amendments Sept. 29, 1980. House agreed to Senate amendments Sept. 29, 1980. Signed into law Oct. 17, 1980.

H.R. 4015 (Heckler et al.)

Veterans' Senior Citizen Health Care Act of 1979. As passed by the House, provides for 15 demonstration centers for geriatric research, education, and clinical operations. Introduced May 9, 1979; referred to Committee on Veterans' Affairs. Reported to House May 15 (H.Rept. 96-148). Passed House June 5, 1979. Hearings held in Senate by Committee on Veterans' Affairs Oct. 29, 1979.

S. 330 (Hart et al.)

Veterans Administration Adjudication Procedure and Judicial Review Act. As passed by the Senate, codifies and establishes internal procedures of the Veterans Administration applicable in adjudication of claims for benefits under laws administered by the VA. Requires application of the Administrative Procedure Act provisions applicable to rulemaking. In connection with this, permits access to the U.S. Federal court system for review of decisions of the Administrator on claims for benefits. Also revises the present limitation of $10 for claimants' attorneys' fees, within certain limits. Introduced Feb. 1, 1979; referred to more than one committee. Reported to Senate, amended, May 15 (S.Rept. 96-178). Passed Senate, amended, Sept. 17, 1979.

Tager, Evelyn

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H.J. Res. 510	Continuing, further, FTC, 1980 (H. Rept. 96-824)	Mar. 13	(¹)	......	......	......	......	......	......	......
H.J. Res. 545	Supplemental, Agriculture, 1980 (H. Rept. 96-927)	May 8	May 13	May 13	May 14	May 15	May 15	May 15	May 16	96-243
H.R. 7325	Supplemental Appropriation/Rescission, 1980 (H. Rept. 96-934).	May 9	(²)	......	......	......	......	......	......	......
H.J. Res. 554	Federal Trade Commission, 1980 (H. Rept. 96-1054)	May 29	......	......	June 3	......	......	......	June 4	96-261
H.R. 7542	Supplemental Appropriation/Rescission, 1980 (H. Rept. 96-1086).	June 11	June 19	June 23	June 28	July 1	July 2	July 2	July 8	96-304
H.R. 7583	Treasury, Postal, 1981 (H. Rept. 96-1090)	June 13	Aug. 20	Sept. 17	......	......	......	......	......	(³)
H.R. 7584	State, Justice, 1981 (H. Rept. 96-1091)	June 13	July 23	Sept. 16	Nov. 17	Nov. 18	Nov. 21	Dec. 3	Dec. 13	Veto
H.R. 7590	Energy and Water, 1981 (H. Rept. 96-1093)	June 16	June 25	Sept. 5	Sept. 10	Sept. 17	Sept. 24	Sept. 24	Oct. 1	96-367
H.R. 7591	Agriculture, 1981 (H. Rept. 96-1095)	June 17	July 30	Nov. 24	Nov. 25	Dec. 1	Dec. 4	Dec. 4	Dec. 15	96-528
H.R. 7592	Military Construction, 1981 (H. Rept. 96-1097)	June 17	June 27	Sept. 9	Sept. 17	Sept. 23	Sept. 30	Oct. 1	Oct. 13	96-436
H.R. 7593	Legislative Branch, 1981 (H. Rept. 96-1098).	June 17	July 21	......	......	......	......	......	......	(³)
H.R. 7631	HUD, 1981 (H. Rept. 96-1114)	June 19	July 28	Sept. 4	Sept. 23	Sept. 25	Dec. 2	Dec. 3	Dec. 15	96-526
H.R. 7724	Interior, 1981 (H. Rept. 96-1147)	July 2	July 30	Sept. 23	Nov. 17	Nov. 18	Nov. 21	Dec. 1	Dec. 12	96-514
H.R. 7831	Transportation, 1981 (H. Rept. 96-1193)	July 24	July 31	Sept. 9	Sept. 18	Sept. 22	Sept. 30	Oct. 1	Oct. 9	96-400
H.R. 7854	Foreign Assistance, 1981 (H. Rept. 96-1207)	July 29	......	......	......	......	......	......	......	(³)
H.R. 7998	Labor, Health, Education, 1981 (H. Rept. 96-1244)	Aug. 21	Aug. 27	......	......	......	......	......	......	(³)
H.R. 8061	District of Columbia, 1981 (H. Rept. 96-1271)	Aug. 28	Sept. 3	Sept. 19	Nov. 17	Nov. 18	Dec. 2	Dec. 4	Dec. 15	96-530
H.J. Res. 601	International Monetary Fund (H. Rept. 96-1263)	Aug. 28	Sept. 25	Nov. 19	Dec. 13	......	......	......	Dec. 17	96-544
H.J. Res. 607	Supplemental, Veterans' Administration (H. Rept. 96-1311).	Sept. 10	Sept. 15	......	Sept. 16	......	......	......	Sept. 17	96-352
H.R. 8105	Defense, 1981 (H. Rept. 96-1317)	Sept. 11	Sept. 16	Nov. 19	Nov. 21	Dec. 2	Dec. 5	......	Dec. 15	96-527
H.J. Res. 610	Continuing, 1981 (H. Rept. 96-1327)	Sept. 17	Sept. 18	Sept. 24	Sept. 29	Sept. 29	Oct. 1	Oct. 1	Oct. 1	96-369
H.J. Res. 637	Continuing, 1981 (H. Rept. 96-1484)	Dec. 1	Dec. 3	Dec. 3	Dec. 11	Dec. 13	......	......	......	(⁴)
H.J. Res. 644	Continuing, 1981	Dec. 13	Dec. 13	......	Dec. 15	......	......	......	Dec. 16	96-536

[1] See H.J. Res. 514 and H.J. Res. 541.

[2] Laid on table June 19, 1980.

[3] Funding for programs in these bills is covered by the Continuing Resolution H.J. Res. 644 (P.L. 96-536).

[4] H.J. Res. 644 enacted in lieu of H.J. Res. 637.

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